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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MAR 11 2005

P.M. _____
TIME A.M. _____

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UNITED STATES OF AMERICA, :

CR-03-1322 (SJ)

-against-

:

U.S. Courthouse
Brooklyn, New York

MOHAMMED ALI HASSAN
AL-MOAYAD and MOHAMMED
MOHSEN YAHYA ZAYED, :

Defendants. :

TRANSCRIPT OF TRIAL
February 1, 2005
9:30 a.m.

- - - - - X

BEFORE:

HONORABLE STERLING JOHNSON, JR., U.S.D.J.
And a jury

APPEARANCES:

For the Government:

ROSLYNN R. MAUSKOPF, ESQUIRE
United States Attorney
One Pierrepont Plaza
Brooklyn, New York 11201

By: KELLY MOORE
PAMELA CHEN
JEFFREY KNOX
Assistant U.S. Attorneys

For the Defendant:

WILLIAM GOODMAN, ESQ.
HOWARD JACOBS, ESQ.
For Deft. Al-Moayad

JONATHAN MARKS, ESQ.
For Deft. Zayed

Court Reporter:

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Proceedings recorded by mechanical stenography, transcript
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HOLLY DRISCOLL, CSR
OFFICIAL COURT REPORTER

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1 (The following takes place out of the presence of
2 the jury.)

3 THE COURT: I'd like to inform you that February 8th
4 through the 10th I'll be out of town, so we'll work that
5 Monday and that Friday, that's Tuesday through Thursday.

6 MR. GOODMAN: That's next week, right?

7 THE COURT: Yes.

8 How are you feeling, Mr. Jacobs?

9 MR. JACOBS: I'm feeling fine, Your Honor, thank you
10 very much, and I've received a voice mail this morning from
11 Steve Kaufman -- this can be off the record -- and he says if
12 Sterling gives you a hard time, I don't know what I can do.

13 THE COURT: Are we ready?

14 MS. MOORE: Just one quick matter before we bring
15 the jury out. Close to a year ago the government had provided
16 the defense a full set of videos for the entire transaction
17 that took place in the rooms. A little while ago they'd asked
18 us to download a copy of the hard drive from the Alcatraz that
19 it could be played on a computer that contained all of that.
20 In court last week Mr. Goodman asked me if I would stipulate
21 that the copy we provided was a copy of the original which I
22 did in good faith. Defense counsel apparently knew at that
23 point that there were gaps, which was unbeknownst to me,
24 otherwise I obviously wouldn't have stipulated it. There was
25 an error in the creation of it.

1 They left the jury with the impression that there
2 are hours worth of gaps, of video gaps as a result. There's
3 nothing much I can do about it other than clarify it through
4 the witnesses but I guess my application is I would ask that
5 defense counsel not ask the government to stipulate to
6 anything in front of the jury. By standing up and saying will
7 the government stipulate, it puts us in an awkward spot right
8 there on the spot. I'd ask that they just do that with me
9 ahead of time so that there can be no future confusion.

10 THE COURT: Just a second. When they ask you to
11 stipulate and you have reservations like that, you can say no
12 and then work it out with them outside the presence of the
13 jury.

14 MS. MOORE: Okay. By putting me on the spot in
15 front of the jury by asking me to stipulate it makes it
16 awkward.

17 MR. GOODMAN: I'm absolutely fine with that, Your
18 Honor. The one thing that wasn't mentioned is that when we
19 got the hard drive, we were told it contained everything which
20 led to a misunderstanding by me, so, and I've already aired
21 this with Ms. Moore.

22 THE COURT: Okay. How many witnesses you have on
23 today?

24 MS. MOORE: I think three, Judge.

25 MR. GOODMAN: Who are they going to be?

1 MS. MOORE: They're going to be Lance --

2 THE COURT: Where is Mr. Marks?

3 MR. JACOBS: He stepped out, Your Honor. He was
4 here.

5 THE COURT: See, this defeats my purpose. I wanted
6 to start at nine o'clock.

7 MR. GOODMAN: You had said nine o'clock I thought.
8 I got confused about that issue.

9 MR. JACOBS: Your Honor, we called chambers at a
10 quarter of nine and we were told 9:30.

11 THE COURT: I said nine o'clock.

12 MR. MARKS: I'm here, Judge.

13 THE COURT: I received a letter from Mr. Marks, a
14 motion in limine.

15 MR. MARKS: Yes, Your Honor.

16 THE COURT: Let's address this.

17 MR. MARKS: Thank you, Your Honor.

18 Your Honor, we moved for a mistrial after the
19 government's opening based in large part on her reference to
20 Gideon Black and the Tel Aviv bus bombing. I think my letter
21 makes it quite clear what our position is and that is that the
22 bus bombing in Tel Aviv has little, if any, probative value
23 and it is certainly, if it has any probative value whatsoever,
24 outweighed by the prejudicial effect which is enormous and I
25 think the prejudicial effect was palpable in the opening

1 statement so we are moving --

2 THE COURT: You've already moved for a mistrial and
3 I denied that.

4 MR. MARKS: Exactly. This is another motion, Your
5 Honor; this is a motion in limine, Your Honor, to preclude any
6 further references to that and to preclude the government from
7 calling Gideon Black or any other witnesses or victims of that
8 bus bombing. In addition, we have noticed that the government
9 intends to bring in the destruction of the USS Cole into this
10 trial.

11 I submit, Your Honor, that there is no basis
12 whatsoever for that. It has nothing to do with this case, it
13 has nothing to do with the defendants. The only nexus is that
14 it happened in Yemen, that's it. Well, the the World Trade
15 Center bombing happened in New York, that doesn't mean that
16 anybody from New York who is charged with something having to
17 do with terrorism is guilty of the World Trade Center bombing.

18 MS. MOORE: Your Honor, the government will have to
19 prove in this case the defendants knew these organizations
20 were terrorist organizations.

21 THE COURT: And in the letter the defendants stated
22 they will stipulate that they knew they were terrorists.

23 MS. MOORE: Your Honor, the law is they don't get to
24 stipulate the evidence out of existence. We get to prove our
25 case the way we wish to. This is clear evidence they knew.

1 They opened quite clearly on no intent, Hamas is legal in
2 Yemen.

3 THE COURT: I have already said that what lawyers
4 say is not evidence.

5 MS. MOORE: Even so, they have clearly put
6 entrapment and predisposition at issue in this case and as a
7 result, we should be entitled to prove the evidence we have
8 which is that these defendants absolutely knew Hamas was a
9 terrorist organization, as seen on the Frankfurt videos. They
10 went so far in their opening statements --

11 THE COURT: What is the difference if they say they
12 stipulate?

13 MS. MOORE: The difference, Your Honor, is because
14 clearly -- my point is under Old Chief, the Supreme Court
15 case, we get to prove our case. They can't limit us in how we
16 prove our case. We're happy to brief this by the end of the
17 week.

18 THE COURT: What about the issue of the prejudicial
19 value and I don't see what the Cole has to do with this case.

20 MS. MOORE: Well, Your Honor, as for that, they
21 say -- they received notice that we intended to do that on
22 December 6 as part of our motion in limine to offer expert
23 testimony, we clearly laid out that one of the terrorist acts
24 Al Qaeda is involved in is the USS Cole and we intended to
25 call an expert. We won that motion. They've been on notice

1 of that since December 6 and they wait until after my opening
2 statement to object. The same is true for Gideon Black, he
3 was on our witness list. There was an article written in the
4 news about Gideon Black yet they wait until after I open on
5 Gideon Black to say they object.

6 We're allowed to prove our case and the elements of
7 the case with the evidence we have. Furthermore, their
8 opening statement puts intent in issue, puts state of mind in
9 issues, it puts predisposition evidence in issue. We feel
10 their opening statements go so far as to open the door now for
11 the evidence the Court had excluded.

12 THE COURT: Lawyers don't open the door because what
13 the lawyers say is not evidence in this case.

14 MS. MOORE: But they have told this jury that there
15 will be no evidence that there was any connection to Al Qaeda
16 prior to what happened in Germany. They have said that what
17 happened in Germany was all show, no reality. They have said
18 Hamas is legal in Yemen. They have said to this jury that
19 they will prove entrapment. They have opened that door,
20 Judge.

21 THE COURT: They now say that they will stipulate
22 that they knew that Hamas and Al Qaeda are terrorist
23 organizations.

24 MS. MOORE: But then they have to -- judge, like I
25 said, we'd like an opportunity to brief this. Under Old Chief

1 we feel they cannot stipulate our case out of existence. It
2 is severe prejudice to the government, we've opened on this
3 and they knew who our witnesses would be, they knew what we
4 intended to do. They waited for us to open before moving to
5 exclude it, that's not fair to us.

6 THE COURT: Just a second. Do you think that it is
7 fair to bring in testimony about the bombing of a United
8 States naval war ship and this is a case involving material
9 support to Al Qaeda?

10 MS. MOORE: Yes, Judge, I do think it is fair. We
11 briefed the issue on December 6. We think it is fair because
12 we need to prove that the defendants knew these are terrorist
13 organizations. It is fair because that's part and parcel of
14 what this crime in fact is.

15 THE COURT: How do you balance the probative value
16 of that and the prejudicial effect it is going to have on the
17 defendants?

18 MS. MOORE: Your Honor, that was all briefed, we
19 made it very clear we intended to offer an expert who will say
20 Al Qaeda is responsible for multiple terrorist attacks and
21 they've known about this and we won that motion, so it's been
22 clear we were intending to offer this evidence for sometime
23 now.

24 MR. JACOBS: Why not the World Trade Center then, Al
25 Qaeda took --

1 MS. MOORE: That's in our motion.

2 THE COURT: No, no.

3 MR. JACOBS: The government could then offer every
4 act --

5 MS. MOORE: That's correct, Judge, under the law we
6 are entitled to, we need to prove these are terrorist
7 organizations.

8 THE COURT: But you understand that they said
9 they're going to stipulate to it.

10 MS. MOORE: Judge, that's where Old Chief and the
11 Supreme Court case comes into play. They can't just pick and
12 choose how they stipulate our case down. We get to prove our
13 case but, like I said, we'd like an opportunity to brief it.

14 THE COURT: And the stipulation that the Hamas and
15 Al Qaeda are terrorist organizations prohibits you from
16 proving your case?

17 MS. MOORE: They have now said that, you know, their
18 state of mind going in in Germany is they just wanted medical
19 treatment, they've devoted their lives to charity, they were
20 entrapped once they got there. The fact of these two
21 defendants are at a wedding several months earlier where a
22 spokesman for Hamas announces a suicide attack and they're
23 present to hear that announcement and they're present to talk
24 about it in the Frankfurt videos as prior knowledge clearly
25 goes into the fact of their involvement and their state of

1 mind prior to getting to Frankfurt and what they knew at that
2 time.

3 It clearly shows involvement and support for these
4 terrorist organizations predating what happened in Frankfurt
5 and they have in their opening statements basically challenged
6 the government to show that there was involvement prior to
7 Frankfurt and this evidence does exactly that but, like I
8 said, Judge, we'd like to brief it by the end of the week.

9 THE COURT: Go ahead and brief it then. I can tell
10 you that I'm concerned about bringing all of this gory details
11 in, I'm concerned about the prejudice versus the probative
12 value.

13 MS. MOORE: We'll address that, Your Honor, but it
14 was clear before my opening statement we intended to do it.
15 They've seen the crime scene photos, they waited until after I
16 opened. That's prejudicial to the government.

17 THE COURT: I have not seen the crime scene photos,
18 I don't know what it is all about. If it is gory -- when are
19 you going to brief it by?

20 MS. MOORE: The end of this week, probably by
21 Friday.

22 THE COURT: You'll have your response Monday?

23 MR. GOODMAN: Yes.

24 MR. MARKS: Sure.

25 THE COURT: Okay.

1 MR. MARKS: I take it, Your Honor, that there will
2 be no further reference, there will be no references to these
3 events in the course of the trial until the Court has decided
4 this issue?

5 THE COURT: I don't know what the government's proof
6 is.

7 MR. MARKS: That's my point. I don't want -- look,
8 I think that we're highly prejudiced by the opening.

9 THE COURT: I'm not buying a pig in a poke.

10 MR. MARKS: Okay. The question is this, may the
11 government make reference to these things while the motion is
12 pending before the Court?

13 THE COURT: What do -- you're playing the tapes
14 today?

15 MS. MOORE: We're playing the tapes for the rest of
16 the week, although in one of the Frankfurt tapes the
17 defendants reference the events, we intend to play that tape.

18 THE COURT: The defendants reference what?

19 MS. MOORE: The Hamas representative talking at the
20 wedding about how the suicide attack was coincided to time.

21 THE COURT: You play the tapes, if there's an
22 objection I'll rule on it.

23 MR. MARKS: Very good.

24 THE COURT: Bring the jury in.

25 MR. JACOBS: Your Honor, since I wasn't here last

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1 week, are we sitting this Friday?

2 THE COURT: Yes. You missed some time, we've got to
3 make it up.

4 MR. JACOBS: Yes.

5 (Jury enters courtroom.)

6 THE COURT: Good morning.

7 Ms. Moore.

8
9 MS. MOORE: The United States calls Lance McVickar.

10 (Witness takes the stand and is sworn by the Court.)

11 L A N C E M C V I C K A R, having been first duly
12 sworn was examined and testified as follows:

13 THE COURT: Please state your name and spell it for
14 the record.

15 THE WITNESS: My name is Lance McVickar, M C,
16 V I C K A R.

17 MR. GOODMAN: Your Honor, would the Court request
18 the witness to speak into the microphone.

19 THE WITNESS: My name is Lance McVickar.

20 MR. GOODMAN: Mr. McVickar is an audio/visual
21 specialist, I think maybe he can fix it for us.

22 THE WITNESS: I don't think I can fix it from here.)

23 THE COURT: Keep your voice up until we can resolve
24 this.

25 THE WITNESS: Sure.

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1 DIRECT EXAMINATION

2 BY MS. MOORE:

3 Q How are you employed?

4 A I'm self-employed.

5 Q What do you do?

6 A I'm a recording engineer.

7 Q For how long have you been a recording engineer?

8 A About 15 years.

9 Q What type of work do you do as a recording engineer?

10 A I record records, produce records, do music for
11 television and movies and I also do forensic audio.

12 Q What is forensic audio?

13 A Forensic audio is basically enhancing audio. So, if it
14 is a wiretap tape or something that's very poorly recorded, I
15 will equalize it and bring it out and make sound more audible
16 for the people reviewing data.

17 Q Were you retained to do any work in this case?

18 A Yes, I was.

19 Q What was that?

20 A That was to compile video and audio data to DVDs for
21 court exhibits.

22 Q Let me show you --

23 MS. MOORE: Your Honor, may I approach?

24 THE COURT: Yes.

25 Q Let me show you Government Exhibits 16 A and B, 17 A and

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1 B, 18 A through C inclusive and 19 A through C inclusive.

2 Do you recognize them?

3 A Yes, I do.

4 Q What are they?

5 A These are the Atis data tapes and these are the Alcatraz
6 hard drives.

7 Q Were those provided to you by the FBI?

8 A Yes, they were.

9 Q When?

10 A Mid-summer 2004.

11 Q And when you say these are the Atis tapes, can you
12 identify the Atis tapes by exhibit numbers?

13 A Yes, these are room 6222, 18 A through 18 C. And these
14 are room 6321, 19 A through 19 C.

15 Q And what are the Alcatraz exhibit numbers?

16 A Exhibit number 17 B, 17 A, 16 A and 16 B.

17 Q And do the Alcatraz recordings contain both video and
18 audio?

19 A Yes, they do.

20 Q What are the dates that are -- what are the dates of the
21 recordings included on the Alcatraz hard drives?

22 A January 7 through January 10th, 2003.

23 Q Do the recordings themselves have date stamps on them?

24 A Yes, they do.

25 Q Do you notice anything unusual about the time on

McVickar - direct - Moore

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1 January 7th, 2003 on Government Exhibit 16 A?

2 A Yes, the clock on the video was off by about an hour and
3 20 minutes.

4 Q For about how long?

5 A For about an hour and then the clock was reset to the
6 proper time.

7 Q What type of tapes are the Atis tapes?

8 A They're data tapes.

9 Q And how many hours are on each one for a total?

10 A Total there's about three and a half days worth of audio.

11 Q What are the dates for those recordings?

12 A January 7, 2003 to January 10, 2003.

13 THE COURT: Keep your voice up until we can get
14 somebody up here.

15 THE WITNESS: Yes, sir.

16 Q How is the audio stored on those exhibits?

17 A They are WAV files.

18 Q What is a WAV file?

19 A A WAV file is a computer digitized file so that it can be
20 played back via computer.

21 Q How many WAV files are there on those two exhibits,
22 Government Exhibits 18 and 19?

23 A A couple of thousand WAV files.

24 Q How long are the WAV files?

25 A They vary between five seconds and 20 minutes, maybe a

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1 little longer.

2 Q How do you figure out how they all fit together?

3 A They're all time stamped and I had a database to look at,
4 it would say what each one was recorded at and its duration.

5 Q Why do they vary in length, why are only some a few
6 seconds?

7 A Because I believe the way they were recorded, it was a
8 multiple microphone situation and each mike had a threshold
9 to pick up whatever sound was loudest next to the microphone;
10 so that if one thing was loud in one side of the room, it
11 would record that, or if somebody moved to the other side
12 of the room or the air conditioner turned on and got loud,
13 so it recorded many different WAV files because there were
14 multiple microphones with a threshold setting that would --
15 that was set up to record, from my understanding, different
16 parts of the room via how loud the volume was. So, if I
17 dropped a pen over here and the air conditioner was very loud
18 over there, it would record the air conditioner, or if
19 somebody spoke up loudly over here, it would then record that.
20 So, each time it records, it writes a brand new file to the
21 Atis machine.

22 Q What were you asked to do with Government Exhibits 16
23 through 19?

24 A I was asked to just compile the data into a cohesive
25 videotape so that the audio and the video were synched

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1 together and create DVDs for court exhibits.

2 Q Let me show you what have been premarked for
3 identification as Government Exhibits 1 through 12 and
4 Government Exhibits 48 through 52 and ask you to take a look
5 at them.

6 Do you recognize them?

7 A Yes, I do.

8 Q What are they?

9 A These are the DVDs I created from the Alkatraz and the
10 Atis tapes.

11 Q And can you explain to the jury what it is you did to
12 create those?

13 A Well, I had many different audio files and I had videos
14 of the entire four days and I had to basically take all the
15 audio and synchronize it so that it would be lined up with the
16 lips and whatever was going on in the room.

17 Q For those particular conversations?

18 A For these conversations, yes.

19 Q What language are these conversations in?

20 A They're in Arabic mainly and a little bit of English.

21 Q Do you understand Arabic?

22 A I do not.

23 Q How were you able to sync up the audio and video if you
24 don't understand Arabic?

25 A I would look for other things that were going on such as

McVickar - direct - Moore

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1 someone setting down a glass or somebody flicking on a light
2 switch, somebody coughing, laughing, other cues.

3 Q And you used those to sync the rest?

4 A I would then listen to the WAV file that was time stamped
5 for the same time as the video, listen to the WAV file, listen
6 to somebody set down a glass, the clink sound on the glass
7 table, I would line that up to the video and I would see that
8 everything would be in sync.

9 Q Other than syncing them up, did you do anything else to
10 create the trial exhibits?

11 A I did some audio enhancement to make the audio more
12 clearer to understand what was being said.

13 Q How did you do that?

14 A Using the equalizer, sort of like you do on a stereo, you
15 turn up the treble or turn down the base and you bring out the
16 voice just to make it more audible.

17 Q Did you do anything to change the content of the
18 conversations in anyway?

19 A I did not.

20 Q Did you do anything to delete any content from the
21 conversations?

22 A No.

23 MS. MOORE: Your Honor, I offer Government Exhibits
24 1 through 12 and 48 through 53.

25 MR. GOODMAN: I'd like to voir dire for just a

McVickar - voir dire - Goodman

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1 moment.

2 THE COURT: Go ahead.

3 VOIR DIRE EXAMINATION

4 BY MR. GOODMAN:

5 Q We have 1 through 12, which is 12, and 48 through, what
6 is it, Mr. McVickar, 53?

7 A That's correct.

8 Q So, there's 17 separate exhibits?

9 A I believe so.

10 Q And how are they divided up, if you could explain to us?

11 A There are some shorter edits, so those are the shorter
12 DVDs, and then there's the full length of the points that they
13 required me to make videos out of it.

14 Q So, these are not recordings of the entire four days
15 January 7th through January 10th?

16 A Not these DVDs.

17 Q These are sections?

18 A These are selections.

19 Q Who selected these selections?

20 A Kelly did and Pam.

21 Q The U.S. Attorneys?

22 A The U.S. Attorneys, yes.

23 Q And you indicated there were some areas in the Alcatraz
24 exhibits where it was hard to understand what was being said
25 or there was -- so that you had to audio enhance some of

1 these, is that your testimony?

2 A Sure, yes, and from Atis as well. I mean whatever -- I
3 would always try and use the best audio and if it sounded bad
4 for the section, that if it was the only section I had, I
5 would try and enhance it, make it sound a little more audible
6 or as audible as I could make it sound.

7 Q And the only other thing has to do with the times, my
8 only other little line of questioning here; you indicate that
9 you had a database and that's how you got the times for the
10 audiotapes, sir?

11 A Yes, the Atis has a database of every recording, every
12 WAV file that was recorded on it and that was printed out and
13 given to me.

14 Q Is there --

15 A As well as the Alkatraz has a time stamp on the video
16 itself.

17 Q Is there way to tell from the Atis tapes other than the
18 fact that somebody gave you something that said the times, can
19 you tell internally in the tapes themselves at what times
20 different things are being said?

21 A Well, when the tapes are loaded into the Atis machine it
22 has a database that's stored on the tape itself and that comes
23 up on the screen.

24 Q So you can then see the times for the WAV files, is that
25 right?

McVickar - direct - Moore

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1 A Yes, duration and time.

2 MR. GOODMAN: I have no objection, Your Honor.

3 THE COURT: Mr. Marks?

4 MR. MARKS: No objection, Your Honor.

5 THE COURT: It is received.

6 DIRECT EXAMINATION (CONT'D.)

7 BY MS. MOORE:

8 Q Mr. McVickar, were there any gaps or dropouts in the
9 audio on the original digital Atis recordings?

10 A Yes, there were dropouts.

11 Q Did you do anything to create or cause those dropouts?

12 A No, I did not.

13 Q Were there any video gaps?

14 A No.

15 Q The Alkatraz hard drives you have up there, can those
16 easily be played on any computer?

17 A No, they're formatted strictly to play on the
18 surveillance machine, the Alkatraz.

19 Q In addition to making the trial exhibits, were you asked
20 to make a copy of the Alkatraz hard drives so that they could
21 be played on a regular computer?

22 A Yes, I was.

23 Q And what were you asked to do in that regard?

24 A I was to digitize all the footage that had been taken for
25 the four days.

McVickar - direct - Moore

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1 Q For room 6222?

2 A Yes.

3 Q Then what did you do?

4 A Then I put those onto hard drives.

5 Q And did you do that all in one big 24 hour, you know,
6 chunk?

7 A No, because the computer file -- a lot of hard drives,
8 PCs as well as DOS formatted drives will only accept up to
9 four gig size files so I had to cut up the videos into six
10 hour sections.

11 THE COURT: Just a second. When you respond to the
12 questions by Ms. Moore, you're talking technical terms and we
13 have a jury who are lay people, so can you break it down into
14 lay language as much as you can.

15 THE WITNESS: Sure. Basically I digitized, which
16 is to copy all of the footage but I had to break it up into
17 sections so it won't take up so much space as one long file
18 onto the hard drive.

19 Q Were you asked to check whether or not you had correctly
20 downloaded the entire video onto the hard drive you created
21 recently?

22 A Yes.

23 Q When were you asked to do that?

24 A A few days ago.

25 Q And what, if anything, did you discover?

McVickar - direct - Moore

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1 A I found out that I did not copy two of the files from my
2 hard drive onto the hard drives that were passed out, a
3 mistake by me.

4 Q What were the time periods for?

5 A It was the 9th from about 2 to 8 p.m. and the 10th from
6 12 a.m. to 6 a.m.

7 Q Have you done anything to correct that?

8 A Yes, I recently just copied the files onto a hard drive.

9 Q Let me show you Government Exhibit 100. Do you recognize
10 it?

11 A Yes, I do.

12 Q What is it?

13 A That's the drive that I copied the files onto.

14 Q To the best of your knowledge, does that drive now
15 contain all of the video from the Alcatraz room 6222?

16 A Yes.

17 Q Was any of the original video ever missing from the
18 original Alcatraz exhibits?

19 A No, it was not.

20 MS. MOORE: One moment, Your Honor.

21 (Pause.)

22 MS. MOORE: No further questions, Your Honor. I
23 offer Government Exhibit 100.

24 MR. GOODMAN: I have no objection to 100. 100 is
25 the same -- no, I have no objection.

McVickar - cross - Goodman

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1 MR. MARKS: No objection.

2 THE COURT: It is received.

3 Now, cross, Mr. Goodman.

4 MR. GOODMAN: If I may.

5 CROSS-EXAMINATION

6 BY MR. GOODMAN:

7 Q Good morning. Is it the case that you listened to the
8 entire set of recordings, both the Atis and the Alkatraz, sir,
9 before you engaged in the creation of these exhibits?

10 A I listened to them as I did them. I did not sit and
11 listen to four days straight through of 2000 WAV files.

12 Q You did this sometime the summer of 2004?

13 A That's when I started.

14 Q When did you finish?

15 A Well, I've been working on it, you know.

16 Q It is a work in progress?

17 A It is a work in progress, yes, but basically I finished
18 about a month ago with the main part of the work I had to do.

19 Q During that period of time you were working on it between
20 the summer of 2004 and about a month ago, did you at one point
21 or another hear and see everything that is on both sets of
22 hard drives and tapes?

23 A Yes.

24 Q Were there -- you indicated there were some portions of
25 the audio that were difficult to understand; is that correct?

McVickar - cross - Goodman

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1 A Yes, plenty.

2 Q Did you hear any portions of the hard drive that sounded
3 muffled or rumbly, did you hear that?

4 A Yes.

5 Q A rumbling sound?

6 THE COURT: He understands you so the answer is yes.

7 A Yes.

8 Q Were you able to enhance that and make those portions to
9 the extent that you included them on the --

10 A I would enhance them to the best of my ability and make
11 them sound as clear as possible. Sometimes the noise is
12 louder than the voice.

13 Q Let me give you an example --

14 MS. MOORE: Objection, Your Honor, I don't know what
15 this is and I haven't seen it.

16 THE COURT: Just a second. You're objecting but you
17 don't know what it is.

18 MS. MOORE: Because I haven't seen it.

19 THE COURT: I haven't either.

20 MR. GOODMAN: I'll represent to both counsel and the
21 Court this is a section from our hard drive which at least is
22 the same as exhibit -- what is it, 100, the hard drive you
23 just entered into evidence.

24 THE WITNESS: Are we talking about this?

25 MR. GOODMAN: Yes.

McVickar - cross - Goodman

192

1 THE COURT: When you say this --

2 THE WITNESS: Sorry, the hard drive, Exhibit 100,
3 that has not been enhanced. That is a direct transfer.

4 Q I know.

5 A Okay.

6 Q I know that.

7 MR. GOODMAN: What we're about to play is from that,
8 Your Honor. If I may?

9 THE COURT: Go ahead.

10 (Whereupon, the tape is played.)

11 THE COURT: Is this video?

12 MR. GOODMAN: Yes.

13 Q Can you see it, Mr. McVickar?

14 A Yes.

15 (Whereupon, the tape is played.)

16 Q Is that an example of what we're talking about, either a
17 muffling or rumbling kind of sound?

18 A I would call that distorted.

19 Q Do you have any explanation as to what caused the
20 distortion?

21 A If somebody speaks up very loudly into the microphone,
22 if I would yell into this the sound would distort.

23 Q At some point I thought I heard another extraneous voice
24 over the speaking itself, did you hear that as well?

25 A It just sounded like distortion to me.

McVickar - cross - Goodman

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1 Q Were you able to enhance those sounds so that they become
2 understandable on the exhibits?

3 A Well, the enhancement I did was more rolling out the rim
4 tone in the section of the exhibits and air conditioning
5 noise, that's a very small section. I did much broader sweeps
6 of, you know, multiple hours of video. I didn't go in and
7 fine tune each word that was said at all.

8 Q Were there any segments where the -- I think you talked
9 about dropouts, is that right, sir?

10 A Uh-huh.

11 Q You have to answer verbally.

12 A Yes.

13 Q What did you mean by dropouts, Mr. McVickar?

14 A That's where there was no audio to be placed into the
15 video.

16 Q What was the longest dropout that you heard?

17 A That would be hard for me to really say. With the videos
18 I compiled there aren't that many dropouts.

19 Q What is the longest?

20 A You know, sometimes it is a few seconds.

21 Q Was it ever more than a minute?

22 A I don't believe on the exhibits there's too many spots
23 that are over a minute.

24 Q Are there any?

25 A There may be.

McVickar - cross - Marks

194

1 Q Are there any -- you say on the exhibits, you mean the --

2 A Yeah, these are the ones that I compiled and the direct
3 transfers from the Alkatraz. I did not sit there for four
4 days and listen to everything that was transferred, I just
5 made sure it made it from one source to another.

6 Q Are there ever any as long as about three minutes that
7 you can recall?

8 A On which exhibit are we talking?

9 Q On the Alkatraz?

10 A On the Alkatraz, yes, I would say so.

11 Q So, there are times when you're looking at the screen,
12 people appear to be talking but there's no sound whatsoever,
13 is that right, sir?

14 A That's possible, yes.

15 MR. GOODMAN: Thank you.

16 Just one moment, Your Honor.

17 (Pause.)

18 MR. GOODMAN: Thank you very much. No further
19 questions.

20 CROSS-EXAMINATION

21 BY MR. MARKS:

22 Q I understood you to say, sir, that sometime quite
23 recently you discovered that there was some video missing from
24 the copy of the Alkatraz that you gave to the government?

25 A That was my mistake, yes.

McVickar - cross - Marks

195

1 Q Yes. And was there audio missing as well?

2 A Well, no, it is an MPG file, video file format so the
3 audio and video are getting recorded at the same time.

4 Q So, when the -- when you discovered that there was some
5 video missing from the hours of 2 p.m. to 8 p.m. on the 9th of
6 January, you discovered that the audio was missing as well, is
7 that right?

8 A Well, it is one file.

9 Q Right. So, it is not only video, it is also audio,
10 right?

11 A Sure.

12 Q So, that on the copy that you produced, the first copy,
13 that copy is missing six hours of audio, right?

14 A Six hours of audio and video.

15 Q Right, six hours of audio and video on the 9th, right?

16 A Uh-huh.

17 Q And also six hours of audio and video on the 10th?

18 A Yes.

19 Q When did you discover these missing sections, sir?

20 A When I was told that they were missing. They were not
21 missing on my hard drive, it was when I transferred them to
22 multiple hard drives.

23 Q No, I understand. First of all, when did you transfer
24 them to multiple hard drives?

25 A A few weeks ago.

McVickar - redirect - Moore

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1 Q And when were you told that the multiple hard drives that
2 you transferred this data to had these two big sections
3 missing?

4 A Two days ago I believe.

5 MR. MARKS: Nothing further.

6 REDIRECT EXAMINATION

7 BY MS. MOORE:

8 Q Mr. McVickar, in addition to downloading a hard drive for
9 the Alkatraz you have up there, did you also download a hard
10 drive for all the Atis audio that you turned over?

11 A Yes.

12 Q Was there anything missing from that?

13 A No.

14 Q In addition to that, over the course of creating the
15 exhibits, have copies of some of the exhibits you've turned
16 over been produced by your company directly to the defense in
17 this case?

18 A Yes.

19 Q And among the exhibits up there that you created specific
20 trial exhibits for, are there several hours from the afternoon
21 of January 9th that were previously provided to the defense by
22 your company?

23 A Yes.

24 MS. MOORE: No further questions.

25 MR. GOODMAN: If I may have some recross?

1 RECROSS-EXAMINATION

2 BY MR. GOODMAN:

3 Q The Atis audio files which you reproduced, I just asked
4 you about those.

5 A Copied.

6 Q Copied, yes. Those have I think you said 2,000 separate
7 files in them, is that right, sir?

8 A Somewhere around there, yes.

9 Q And they were copied from other Atis tapes and I think
10 you indicated earlier on direct examination that when you
11 plugged those Atis tapes into an Atis machine you can tell
12 what time they're for; is that right?

13 A What time they're for?

14 Q What time each file was recorded?

15 A Yes, it has a time stamp.

16 Q Right. But when you plug the copies that you made into
17 an ordinary computer such as I may have or my co-counsel may
18 have, you're not going to be able to tell what time any
19 particular of those 2,000 files is for, will you?

20 A I believe that they're noted on the file name as far as
21 channel number and date.

22 Q So that you can tell in an ordinary computer?

23 A Yes, I mean you have a list of the files. You would need
24 the database to know what time I would guess.

25 Q What I'm asking is when I put them into an Atis machine,

McVickar - recross - Marks

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1 the Atis machine tells you what the time is for one of those
2 files, is that right?

3 A Yes, there's a database on the screen.

4 Q When you put them into an ordinary computer, you're not
5 going to be given that information?

6 A Well, you can see what the duration is and if you have a
7 database to refer to as I did, I had a printed out database of
8 the durations and the times so when I'm looking at number 575
9 I see it was recorded on channel one, I see what time it was
10 and the duration.

11 Q All right. Nothing else.

12 RECROSS-EXAMINATION

13 BY MR. MARKS:

14 Q You testified a moment ago that you turned over to the
15 defense certain copies of audio files.

16 THE COURT: Is that a question?

17 MR. MARKS: Yes.

18 Q Is that right?

19 A Can you be a little more specific.

20 Q Well --

21 A Are we talking about the WAV files from the Atis?

22 THE COURT: The question is did you -- you
23 testified that you turned something over to the defense, is
24 that right, yes or no?

25 THE WITNESS: Yes.

McVickar - redirect - Moore

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1 Q What did you turn over to the defense?

2 A Hard drives with the WAV files on them and, yeah, that's
3 about it.

4 Q All that you did was to turn over hard drives, right,
5 with the WAV files on them?

6 A Uh-huh.

7 Q That's it, nothing else?

8 A Right.

9 Q And those hard drives did not contain any audio or video
10 from 2 p.m. to 8 p.m. on the 9th, correct?

11 A Correct.

12 Q And they didn't contain any audio or video from 12 a.m.
13 to 6 a.m. on the 10th, correct.

14 A Correct.

15 Q And apart from those hard drives which didn't have those
16 six hour sections in them, you did not turn anything over to
17 the defense, correct?

18 A Personally, no, I did not.

19 MR. MARKS: Nothing further.

20 REDIRECT EXAMINATION

21 BY MS. MOORE:

22 Q Mr. McVickar.

23 A Yes.

24 Q Did you create hard drives with all the Atis on it
25 specifically to be turned over to the defense?

McVickar - recross - Marks

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1 A Yes, I did, I just did not hand them over personally.

2 MS. MOORE: Nothing further.

3 THE WITNESS: They were given to the U.S. Attorney
4 first.

5 RECROSS-EXAMINATION

6 BY MR. MARKS:

7 Q Did those recordings contain all of the audio and video
8 from the 9th of January from 2 p.m. to 8 p.m.?

9 A All the audio, yes.

10 Q All of the audio?

11 A Well, we already know there was two missing video
12 sections.

13 Q Right.

14 A With audio also missing. Separately from that we had a
15 hard drive with all the audio from the Atis machine, every
16 single WAV file that was turned over as well.

17 Q Turned over to whom?

18 A To you, I mean to the defense.

19 Q How do you know?

20 A How do I know?

21 Q Yeah?

22 A Because I supplied them to be turned over.

23 Q How do you know we ever got them?

24 MS. MOORE: Objection, Your Honor.

25 THE COURT: Yeah, you're arguing with the witness.

McVickar - recross - Marks

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1 Q Is it fair to say you don't know what the government
2 turned over to the defense, is that fair to say?

3 A I understood what they turned over, I believe they
4 told -- you know, I prepared certain files to be exchanged
5 over to the defense.

6 Q Yes, but you don't know what was turned over to us of
7 your own knowledge?

8 THE COURT: Sustained.

9 Q Sir, the only thing that you turned over were the
10 Alkatraz files with the missing segments, right?

11 A Correct.

12 Q Right. And you did not turn -- you, yourself, did not
13 turn over anything else to the defense, correct?

14 A Correct.

15 THE COURT: You can step down.

16 (Witness steps down.)

17 MS. MOORE: The United States calls Amira Soliman.

18 (Witness takes the stand and is sworn by the Court.)

19 A M I R A S O L I M A N, having been first duly
20 sworn was examined and testified as follows:

21 THE COURT: Please state your name and spell it for
22 the record.

23 THE WITNESS: Amira Soliman.

24 THE COURT: Have a seat and spell it.

25 THE WITNESS: Okay. A M I R A, Soliman,

Soliman - direct - Moore

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1 S O L I M A N.

2 DIRECT EXAMINATION

3 BY MS. MOORE:

4 Q Where were you born?

5 A In Cairo, Egypt.

6 Q Where did you grow up?

7 A Cairo, Egypt.

8 Q For how long did you live in Egypt?

9 A Twenty-three years.

10 Q Where did you go after that?

11 A I came to America.

12 Q What year was that?

13 A 1972.

14 Q Have you lived in America ever since?

15 A Yes.

16 Q What is your first language?

17 A Arabic.

18 Q When you were growing up in Egypt did you speak any other
19 languages?

20 A Yes, I did.

21 Q What were those?

22 A English and French.

23 Q When did you first start speaking English?

24 A Kindergarten.

25 Q Where did you graduate from high school?

Soliman - direct - Moore

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1 A St. Vincent de Paul, Cairo, Egypt.

2 Q Did you study any languages in high school?

3 A I did.

4 Q What were those?

5 A French and English.

6 Q After high school did you go to college?

7 A I did.

8 Q Where?

9 A Ein Shames University in Cairo, Egypt.

10 Q Did you receive a degree in that university?

11 A Yes, I did.

12 Q What was that degree?

13 A Bachelor degree of art in French English literature.

14 Q When did you graduate from the university?

15 A In 1972.

16 Q Before you graduated from the University did you have any
17 jobs in Egypt?

18 A I did, I was a tutor.

19 Q A tutor for what?

20 A English and French languages for high school students.

21 Q And after you graduated from college is that when you
22 came to the United States?

23 A Yes.

24 Q What was your first job in the U.S.?

25 A I worked as an accounting clerk and a translator for a

Soliman - direct - Moore

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1 big shipping company named United States Lines.

2 Q What did you translate for the shipping company?

3 A Bills of lading from Arabic and French into English.

4 Q How long did you have that job?

5 A Seven years.

6 Q What did you do next?

7 A I joined the FBI.

8 Q Are you still there?

9 A I am.

10 Q What is your job with the FBI?

11 A I am a language specialist.

12 Q What language do you specialize in?

13 A Arabic.

14 Q What does your job as a language specialist in Arabic at
15 the FBI entail?

16 A I interpret and translate documents and video and audio
17 tapes from Arabic to English and vice versa.

18 Q How often do you do that?

19 A On a daily basis.

20 Q For how long have you been a language specialist for the
21 FBI?

22 A Twenty-three years.

23 Q And during that time have you always done work
24 translating Arabic into English and vice versa?

25 A Yes.

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1 Q Is Arabic a language for which an interpreter can be
2 court certified?

3 A No.

4 Q So, there's no such thing as a court certified Arabic
5 interpreter; is that correct?

6 A No.

7 Q Did you have to take any tests to become an Arabic
8 language specialist at the FBI?

9 A Yes, I did.

10 Q What test was that?

11 A It is a series of tests, several phases; the first one,
12 if you pass it, you go to the next and the next and if you
13 don't pass the first one or the second, you stop and you're --
14 you cannot -- you didn't pass, you failed and it's oral and
15 written and composition test.

16 Q So, to get the job in the first place you have to pass
17 the entry level exam?

18 A Yes.

19 Q Once you have the job are there more exams you can take
20 to move up to receive promotions?

21 A Yes, every time there's a promotion or I apply for a
22 promotion I have to be retested.

23 Q How many times have you been retested for promotions?

24 A Five times.

25 Q Have you always passed?

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1 A I did.

2 Q Have you now passed the highest level?

3 A I did.

4 Q What is your title within the FBI as a language
5 specialist having passed the highest level?

6 A Master linguist.

7 Q In your entire career how many Arabic English
8 translations have you prepared?

9 A Thousands.

10 Q Have you ever translated Arabic conversations off Arabic
11 language tapes?

12 A Yes.

13 Q How many times?

14 A Thousands.

15 Q Are there different dialects in the Arabic language?

16 A Oh, yes, definitely.

17 Q What dialect did you grow up speaking?

18 A Egyptian.

19 Q What are some of the other Arabic dialects?

20 A Libyan, Sudanese, Lebanonese, Syrian, Iraqui, Yemeni,
21 Saudi.

22 Q Have you done translation work in all of those Arabic
23 dialects?

24 A Yes, I did.

25 Q How many translations of the Yemeni dialect have you

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1 done?

2 A Many, thousands.

3 Q Have you ever testified in court before?

4 A Yes.

5 Q Have you ever testified as an expert in Arabic language
6 and the translation of Arabic to English?

7 A Yes.

8 Q Was that in federal or state court?

9 A Federal.

10 MS. MOORE: Your Honor, at this time the government
11 tenders Ms. Soliman as an expert in the Arabic language and
12 the translation of Arabic into English.

13 MR. GOODMAN: Voir dire, Your Honor.

14 THE COURT: Go ahead.

15 VOIR DIRE EXAMINATION

16 BY MR. GOODMAN:

17 Q Ms. Soliman, when you -- good morning.

18 A Good morning.

19 Q When you translate from Arabic to English, just as one
20 example, is it -- withdraw that question.

21 When you translate off a recorded conversation from
22 Arabic into English, do you first attempt to make an Arabic
23 transcript of what it is you've heard?

24 A By hand you mean?

25 Q Any way at all?

1 A In Arabic?

2 Q Yes?

3 A Sometimes.

4 Q Not always?

5 A No, not always.

6 Q Isn't it preferable in your opinion to go from a
7 recording in Arabic to a transcript in Arabic and then
8 translate from the written Arabic to written English?

9 A No, that's not my way of doing things. What I do is I
10 listen to it for myself first without writing anything, I
11 understand the whole thing and if I don't, I go over it again
12 and then I listen to it and I type and I go over it and over
13 it and over it many times with like a -- like doing with a
14 very, very, very tight comb and I do that until I get every
15 and each word. I don't write anything unless I am not sure of
16 something.

17 Q When you say get every and each word, you mean get every
18 and each word into English; is that right?

19 A Yes.

20 Q There's no intermediate stage of putting it into Arabic
21 first, is that what you're saying?

22 A Can you repeat the question.

23 Q I said you do not have an intermediate stage of listening
24 carefully, listening, listening and then putting it into
25 Arabic and then translating from what you've written in Arabic

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1 to English, is that right?

2 A Sometimes I do when it is a difficult part, yes.

3 Q Sometimes you do that?

4 A Yes.

5 MR. GOODMAN: I have no further voir dire questions,
6 Your Honor.

7 MR. MARKS: Just a couple, Your Honor.

8 VOIR DIRE EXAMINATION

9 BY MR. MARKS:

10 Q Ms. Soliman, is the Yemeni dialect different from the
11 Egyptian dialect?

12 A Yes, definitely.

13 Q Yes. And so that it is quite clear when you hear a
14 Yemeni speaker that that person is from Yemen?

15 A Yes.

16 Q He may use words differently from the way that an
17 Egyptian speaker would use them?

18 A Yes.

19 Q He may pronounce them differently?

20 A Yes, he does.

21 Q He may use phrases or idioms which are different from
22 what they are in Egypt?

23 A Yes, you're right but because I did thousands of hours
24 and I spoke to many Yemeni people, I actually hosted the
25 delegation from Yemen of high officials right under the

Soliman - voir dire - Marks

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1 President of Yemen and I hosted them for seven days and I was
2 able to be the only linguist, I was chosen because I'm an
3 expert in Yemeni dialect.

4 Q You've never lived in Yemen, have you?

5 A No, never.

6 Q And so that is it fair to say that you are not familiar
7 with Yemeni stories?

8 A I am because -- I can't really tell you what I do every
9 day but I do hear stories, I hear -- I read books about the
10 history of Yemen and I know the culture from what I do on a
11 daily basis for 23 years, I did live with them through that.

12 Q Let me ask this, Ms. Soliman, is it more difficult for
13 you to translate Arabic in the Yemeni dialect than it is to
14 translate Yemeni into the Egyptian dialect?

15 A Repeat the question.

16 Q I'm sorry, let's start all over. Okay. You were brought
17 up speaking Egyptian?

18 A Yes.

19 Q Is it easier for you to understand the Egyptian dialect
20 than it is to understand the Yemeni dialect?

21 A Yes.

22 MR. MARKS: Nothing further, thank you.

23 THE COURT: You offer her as an expert.

24 Mr. Goodman?

25 MR. GOODMAN: No objection.

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1 MR. MARKS: No objection, Judge.

2 THE COURT: You're an expert.

3 DIRECT EXAMINATION

4 BY MS. MOORE:

5 Q Have you done any translations for this case?

6 A I did.

7 MS. MOORE: Your Honor, may I approach?

8 THE COURT: You may.

9 Q I have placed before you Government Exhibits 1 through 6
10 in evidence and Government Exhibits T-1 through T-6 marked.

11 Would you please take a look at those.

12 A Yes.

13 Q Do you recognize them?

14 A Yes, I do.

15 Q What are Government Exhibits 1 through 6?

16 A These are videotapes of meetings in a hotel room in
17 Germany.

18 Q What language is spoken on those videotapes?

19 A Arabic and English.

20 Q What are Government Exhibits T-1 through T-6?

21 A The transcripts I prepared for those meetings.

22 Q How did you prepare them?

23 A I listened to the video -- watched it and listened to the
24 audio and translated it verbatim.

25 MS. MOORE: I offer Government Exhibits T-1 through

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1 T-6.

2 THE COURT: Mr. Goodman.

3 MR. GOODMAN: Again, I'd like to voir dire on the
4 exhibits if I may.

5 THE COURT: Go ahead.

6 VOIR DIRE EXAMINATION

7 BY MR. GOODMAN:

8 Q How were the sections of -- how were these selected, the
9 portions that you translated, Ms. Soliman?

10 A The whole thing is translated, I didn't select anything.

11 Q The entire conversation for all four days is translated?

12 A Yes.

13 Q And you have that translation?

14 A Yes.

15 Q Do you have it with you?

16 A It is right here.

17 Q That's the entire translation for all four days?

18 A Yes.

19 Q So that every word that was said and that was recorded
20 has been translated by you into those exhibits, is that what
21 you're saying?

22 A Yes, sir.

23 MR. GOODMAN: Then I have no objection, Your Honor.

24 VOIR DIRE EXAMINATION

25 BY MR. MARKS:

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1 Q Is it fair to say, Ms. Soliman, that you are not --
2 you're not a perfect translator?

3 A Nobody is perfect but God.

4 Q I quite agree. And so that you --

5 THE COURT: Just ask the questions.

6 Q And so that you may have made some mistakes?

7 A Not to the best of my knowledge.

8 Q Could we please play --

9 MS. MOORE: I'm sorry, is this voir dire?

10 THE COURT: They're not in evidence.

11 MR. MARKS: Your Honor, this goes to the question of
12 whether these are accurate transcripts.

13 THE COURT: The application is to admit the
14 documents in evidence. There was a voir dire, now you're
15 doing voir dire. You want them in evidence, yes or no?

16 MR. MARKS: Well, may I ask some more questions,
17 Your Honor.

18 THE COURT: Go ahead.

19 BY MR. MARKS:

20 Q You, to the best of your ability, made an accurate
21 English transcript of the Arabic?

22 A Yes.

23 MR. MARKS: Your Honor, I would like to ask the
24 witness about some specific translations that she made.

25 THE COURT: The issue is are we going to admit this

Soliman - voir dire - Goodman

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1 in evidence, yes or no; do you object, yes or no?

2 MR. MARKS: I object.

3 THE COURT: Okay. They're admitted.

4 MR. MARKS: Very good.

5 Thank you.

6 MR. GOODMAN: Your Honor, I have one follow-up voir
7 dire question because -- if I may.

8 THE COURT: Go ahead.

9 VOIR DIRE EXAMINATION (CONTINUED)

10 BY MR. GOODMAN:

11 Q Would you read the times on those different transcripts
12 because -- let's start with what are the exhibit numbers,
13 Ms. Soliman?

14 A Exhibit Number 1 is on 1/7/03.

15 Q For what time period is that?

16 A 8:40 a.m.

17 Q Until?

18 A It's 154 minutes.

19 Q And then the next is what exhibit number?

20 A 1/7/03 at one p.m.

21 Q Now I'm confused, because we've been told for a day and a
22 half here that the cameras were playing all the time, that the
23 microphones were recording all the time and apparently there's
24 a gap between --

25 THE COURT: I'm going to sustain it. This witness

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1 is going to testify to what she did.

2 MR. GOODMAN: She's testified that this is the
3 translation of the entire four days.

4 MS. MOORE: That's not what she said.

5 MR. GOODMAN: I thought that is what she said.

6 THE COURT: Sustained.

7 MR. GOODMAN: Fine.

8 DIRECT EXAMINATION (CONT'D.)

9 BY MS. MOORE:

10 Q Just to be clear, Ms. Soliman, are the transcripts you
11 prepared for three and a half days worth of conversation or
12 selected conversations?

13 A No, the full thing.

14 Q Well, four whole days?

15 A No, no.

16 Q Four hours a day?

17 A No, not the -- whatever I was given for every day, the
18 recording that occurred every day.

19 Q So, the recording on Government Exhibits 1 through 6?

20 A Right.

21 Q And now, taking a look at Government Exhibit T-1, the
22 last page, page 16.

23 A Yes.

24 Q Did you in fact not transcribe every last word towards
25 the end on that video?

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1 A No, I didn't.

2 Q Why not?

3 A Because they were not in front of the camera at that
4 time, they were chatting on and off, like they're saying one
5 word and eating and drinking, nothing was happening.

6 Q So, just to be clear, for that particular transcript and
7 recording you did not transcribe everything to the very end;
8 is that correct?

9 A Correct.

10 Q How many times did you review the videos while you
11 prepared the transcripts?

12 A Many, many times. I can't tell you how many but I do a
13 lot.

14 Q Were you able to hear every single word that was spoken?

15 A No.

16 Q Why not?

17 A Because either it's inaudible, bad recording, sometimes
18 four people are talking together at one time and when you
19 review it over and over they still cover each other so you
20 can't really listen to each word.

21 Q In your 23 years of experience at the FBI is that a
22 common occurrence in tapes you reviewed?

23 A Oh, yes.

24 Q How did you indicate it on the transcript when you
25 couldn't hear or understand the words?

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1 A UI for unintelligible.

2 Q If there were parts of a recording that had no audio,
3 would you indicate that differently on a transcript?

4 A Yes.

5 Q How would you indicate that?

6 A AU interrupted.

7 Q You mentioned that English was spoken during some of
8 those conversations.

9 A Yes.

10 Q Did you indicate that in any way on the transcripts you
11 prepared?

12 A Yes, I underlined English.

13 Q So, if the words were in English to begin with, you'd
14 underline them?

15 A Yes.

16 Q Are there any words in the transcripts prepared that were
17 in Arabic and that you left in Arabic?

18 A Yes.

19 Q How did you indicate that on the transcript?

20 A I put them in italics.

21 Q To the best of your ability, are Government Exhibits T-1
22 through T-6 fair and accurate translations and transcriptions
23 of the conversations 1 through 6?

24 A Yes.

25 Q The videos that you prepared the transcripts from, did

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1 they have dates and times appearing on the video itself?

2 A Yes.

3 Q And what were the dates of the videos that you prepared
4 transcripts for?

5 A The first one was 1/7/2003, it was at 8:40 a.m. On the
6 video itself it says ten but I was told it was a mistake and
7 the real time is 8:40.

8 Q The transcript reflects 8:40 even though the video says
9 ten o'clock?

10 A Yes.

11 Q What is the next one?

12 A The next one is the same day at one p.m. and it was a
13 shorter one, ten minutes, something like that; and then the
14 third one at 7:30 p.m. of the same day and they were chatting
15 before going to dinner.

16 Q Okay. How about -- so, that's January 7th?

17 A Yes.

18 Q Did you prepare any transcripts for January 8th?

19 A Yes, 1/8/2003, this was around 11 a.m. and it was almost
20 two hours or more than two hours.

21 Q How about for the next day?

22 A 1/9/03, it was also around the same time, 10:55, and it
23 was around two hours also. And then 1/10/03, it was around
24 9:30 a.m. and it was 40 minutes, 40, 45 minutes.

25 Q How many people are participating in the conversations

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1 that you did translations for?

2 A Four people in most of them.

3 Q Who are they?

4 A Mohammed Al-Moayad, Mohammed Zayed, CI-1 and CI-2.

5 Q And how did you attribute conversations to them on the
6 transcripts you prepared?

7 A For Mohammed Al-Moayad I put Al-Moayad and for
8 Mohammed Zayed I put Zayed. For CI-1 I put CI-1 and for CI-2
9 I put CI-2.

10 Q Are you familiar with the defendant Al-Moayad and the
11 defendant Zayed?

12 A Yes, I am.

13 Q How are you familiar with them?

14 A I met them several times, I went with extradition team
15 with the FBI to Germany to extradite them, and I've talked to
16 them personally and I assisted the agents in interrogating
17 them on the plane and then after that I assisted the Yemeni
18 diplomats in the visitation when they wanted to visit them, I
19 assisted the translation and interpretation of the
20 conversation.

21 Q For the conversations that you did translations for are
22 all four people visible on the videos?

23 A No, most of the time it's two people, Mohammed Zayed and
24 Mohammed Al-Moayad.

25 Q So, when they speak can you see them speak as well as

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1 hear them speak?

2 A Yes.

3 Q You mentioned that you traveled from Germany to the U.S.
4 with the defendants when they were being extradited; when was
5 that?

6 A In November of 2003.

7 Q How long was that flight?

8 A Eight hours.

9 Q What did you do during that flight?

10 A I assisted the agents in interrogating, asking them
11 questions and their answers and I interpreted this -- the
12 questions and the answers.

13 Q Did the agents speak to both defendants at that time?

14 A No.

15 Q Who did they speak to first?

16 A Mohammed Al-Moayad.

17 Q Who did they speak to next?

18 A Mohammed Zayed.

19 Q And when they spoke to them did you translate accurately
20 to the best of your ability?

21 A Yes.

22 Q Both the questions and the answers?

23 A Yes.

24 Q After the extradition flight did you review the reports
25 the agents prepared of those post-arrest interviews that you

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1 translated?

2 A Yes, I did.

3 Q How long after the flight did you review those reports?

4 A A day or two.

5 Q And at that time the post-arrest statements were still
6 fresh in your mind?

7 A Yes.

8 Q Let me show you what have been premarked for
9 identification as Government Exhibits 3500 AS-1 and AS-2 and
10 ask you to take a look at those quickly.

11 What are they?

12 A These are the report of the interrogation on the plane.

13 Q Those are the ones you reviewed a couple of days after
14 the extradition?

15 A Yes.

16 Q And they accurately reflect the content of the interviews
17 that you translated on the plane?

18 A They do.

19 Q You also mentioned that you translated for the FBI when
20 the defendants met with the Yemeni diplomats; is that correct?

21 A Yes.

22 Q When you did that did you translate fairly and accurately
23 to the best of your ability?

24 A Yes.

25 MS. MOORE: Nothing further.

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1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. GOODMAN:

4 Q Well, it's now been cleared up that you did not translate
5 every bit of conversation that was engaged in --

6 THE COURT: No statements, just ask questions.

7 MR. GOODMAN: All right.

8 Q You translated selected portions of the recorded
9 conversations; is that correct?

10 A No. The whole thing, everything that is recorded I
11 translated it, I did.

12 Q Well, again, then I fail to understand what it is we have
13 in front of us here with your exhibits. For example --

14 MR. GOODMAN: May I approach the witness, Your
15 Honor?

16 THE COURT: You may.

17 MR. GOODMAN: Thank you.

18 THE COURT: What are you showing here.

19 MR. GOODMAN: Exhibits T-1 and T-2.

20 Q Between Exhibits T-1 and T-2 there are several hours; is
21 that correct?

22 A Yes.

23 Q You have not translated that?

24 A There was nothing recorded between the two.

25 Q There was absolutely nothing recorded?

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- 1 A Nothing.
- 2 Q When does T-2 -- when does the translation on T-2 end?
- 3 A T-2?
- 4 Q Yes.
- 5 A That occurred on 1/8?
- 6 Q Yes.
- 7 A It ended two hours from the time it started. It started
- 8 1/8, started at 11 a.m.
- 9 Q I'm sorry, Ms. Soliman, I think T-2 starts on the 7th.
- 10 A I'm sorry, T-2, yes, at one p.m., sir.
- 11 Q How long did it go on, your translation?
- 12 A Ten or 15 minutes.
- 13 Q And then the next recording starts up again at what time?
- 14 A 7:30.
- 15 Q Are you saying that from 1:10 in the afternoon until 7:30
- 16 that evening there was nothing recorded of these gentlemen
- 17 speaking?
- 18 A Yeah.
- 19 Q Okay. Then let's go on, the next recording starts at
- 20 11 a.m. the next morning, is that right?
- 21 A Right.
- 22 Q Which would be the morning of the 8th?
- 23 A Yes, sir.
- 24 Q How long did the conversation go on?
- 25 A How long?

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1 Q Yes?

2 A Two hours.

3 Q Did you record anything else for the 7th?

4 MS. MOORE: Objection.

5 Q Excuse me, did you translate anything else for the 7th?

6 A The 7th or 8th?

7 Q The 7th?

8 A You went back to the 7th now?

9 Q Yeah.

10 A No.

11 Q Okay. So, the next transcript then would begin at
12 11 a.m. the next morning?

13 A Yeah.

14 Q And there was nothing recorded in the rooms between 9:30
15 that evening and 11 the next morning?

16 MS. MOORE: Objection, to the extent that she knows,
17 Your Honor.

18 THE COURT: Yes.

19 MR. GOODMAN: Well, the witness has testified,
20 already testified --

21 THE COURT: Does she know.

22 MR. GOODMAN: She knows that everything that was
23 recorded she translated.

24 THE WITNESS: No, sir, I don't. I translated
25 whatever was recorded. The conversation, whatever is recorded

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1 I translated it.

2 Q Whatever is recorded on those CDs, on the DVDs?

3 A Yes.

4 Q Do you know if there was anything recorded outside of the
5 DVDs that you have in front of you?

6 A I don't.

7 Q Do you know how those DVDs were selected that you were
8 supposed to listen to and then translate?

9 MS. MOORE: Objection.

10 THE COURT: No, I'll allow it. Do you know how they
11 were selected?

12 THE WITNESS: No, I don't, I have no idea.

13 Q You were just given them, is that right?

14 A Right.

15 Q Who gave them to you?

16 A My case agent.

17 Q Who is that?

18 A Brian Murphy.

19 Q Mr. Murphy who is seated here at counsel table; is that
20 right?

21 A Yes.

22 Q Do you know why Mr. Murphy selected some and did not
23 select all of the recorded conversations?

24 THE COURT: Sustained.

25 Q Now, you indicated that some words you left -- you

1 translated and transliterated into English leaving the Arabic
2 word; is that correct?

3 A Yes.

4 Q One example of such a word would be the word "jihad"; is
5 that right?

6 A Correct.

7 Q Jihad is a religious term, is it not?

8 A Yes.

9 Q And it has many meanings, does it not?

10 A It depends, it depends on the context.

11 Q It depends on the context what it means; is that right?

12 A Yeah, lately since the 1960's it has only one meaning.

13 Q Only one meaning to the word jihad?

14 A Yes.

15 Q It doesn't mean inner struggle?

16 A No.

17 Q It doesn't mean a personal struggle that one may have in
18 his or her career, his or her life, it doesn't mean that?

19 A No, it doesn't because I checked with many dictionaries
20 and very good ones and the only meaning in those dictionaries,
21 and I can bring them to you if you like.

22 THE COURT: No, no, no.

23 A The only meaning was a holy war, jihad is a wholly war.

24 Q A holy war?

25 A By Muslims against infidels as a religious duty.

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1 Q That's the only meaning that --

2 A That's the only meaning.

3 Q -- that anyone would ever use the word jihad in
4 conversation?

5 A I tell you what happened.

6 Q No, please answer my question.

7 THE COURT: No, no.

8 A I'm answering it, you're not allowing me.

9 MR. GOODMAN: Would you read the question back
10 please.

11 (Whereupon, the record was read.)

12 Q Let me ask the question again and see if you can answer
13 this question. The only time -- the only meaning for the word
14 jihad when anyone uses it in conversation in the entire
15 Arabic world is it means armed struggle against -- by Muslims
16 against infidels?

17 A I said holy war by Muslims against infidels as a
18 religious duty and, yes, it is -- means this way lately since
19 the 1960's because of historically --

20 MR. GOODMAN: Excuse me, please. Your Honor, I ask
21 the Court to instruct the witness to answer the question?

22 THE WITNESS: I am answering the question.

23 THE COURT: Just a second, just a second. What was
24 the question? I thought she was explaining it to you.

25 MR. GOODMAN: The question was that this is the only

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1 meaning, she then is going to give me an explanation. I'm not
2 asking for an explanation at this point.

3 THE COURT: Okay.

4 Q So, that it doesn't mean anything else today when Muslims
5 or, excuse me, Arabic speaking people use this word?

6 THE COURT: Sustained, asked and answered.

7 Q So, given that that is the only meaning that this word
8 can have, why isn't it when you translated this conversation
9 into English you didn't use those words, use the words "a holy
10 war by Muslims against infidels"?

11 A Because the word jihad is very well known now in the
12 English vocabulary to everyone and people who are moderate
13 Muslims, they shy away from using it because it is associated
14 them with jihad which is terrorism.

15 Q So, the answer to my question is the reason you did not
16 use the English translation but kept the Arabic word in the
17 transcript was because everybody, English speaking and Arabic
18 speaking alike know that this has only this one meaning, is
19 that what you're saying?

20 A Yes, sir.

21 Q What about Mujahidin?

22 A Mujahidin, the word comes from the root of the word is
23 jihad and Mujahid is the person who did jihad which means the
24 fighter, the warrior, the person who is doing jihad for the
25 sake of God.

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1 Q And this is the only possible meaning that jihad --
2 excuses me, that Mujahidin has these days when used by Arabic
3 speaking people; is that right?

4 A Yes.

5 Q And the reason you didn't translate it into English was
6 because it is so well known and so well understood among the
7 English speaking people that you didn't need to; is that
8 right?

9 A It is written in the newspapers every day --

10 THE COURT: No. Yes or no?

11 THE WITNESS: Yes.

12 Q I want you to turn, if you would, to T-6 --

13 MR. GOODMAN: Your Honor, one of the jurors.

14 THE COURT: Okay.

15 MR. GOODMAN: I have to use the bathroom.

16 THE COURT: Yeah, all right. I was going to do that
17 just for everybody. Take five.

18 (Jury leaves courtroom.)

21 (Recess taken.)

22 (Continued on next page.)

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1 THE COURT: Are you ready?

2 MR. MARKS: Yes.

3 THE COURT: Good, Mr. Marks.

4 (Jury in at 11:10 a.m.)

5 THE COURT: Mr. Goodman.

6 CROSS-EXAMINATION

7 BY MR. GOODMAN:

8 Q I want to ask you a little bit about your translation
9 process. Take a look at page 32 of T-6.

10 A Okay.

11 Q There is a paragraph there by my client Sheikh Al-Moayad.
12 Do you see it there which was read to the jury as a prayer, do
13 you see that statement?

14 A Yes.

15 Q And among other things, the statement is made: "Dear
16 God, defeat the Jews, the tyrants, defeat the infidel
17 Americans. Dear God, strike them with earthquakes and put
18 them in their coffins."

19 Do you see that?

20 A Yes.

21 Q Did you translate this? You said some of this you put
22 from the recorded transcript into Arabic and then into
23 English, is that right?

24 A Right.

25 Q Did you do that with this paragraph here?

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1 A I don't remember.

2 Q What is the word for coffins that Sheikh Moayad used?

3 A Iqbirhuh.

4 Q And you're certain that he used that word in the
5 recording that you listened to?

6 A Yes.

7 Q You are certain that word is there, correct?

8 A To the best of my knowledge, yes.

9 Q When you say to the best of your knowledge, are you
10 saying you are not sure?

11 A I didn't say that.

12 THE COURT: She said to the best of her knowledge.

13 Q I want to go back to the word Jihad.

14 What is the Arabic root word for Jihad?

15 Is it Juhd?

16 THE COURT: If you know.

17 A It is, that is it, Juhd.

18 Q Did you say that correctly?

19 A Yes, you did.

20 THE COURT: Spell the word.

21 THE WITNESS: J-U-H-D.

22 Q Just so the jury understands a little bit about the
23 Arabic language, what does this mean to have a radical word or
24 a base word for another word, can you explain that?

25 A Yes, like the adverb, every word has the root of the

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1 word. Like in French we say racine, the base of the word.

2 Q Give us an example in English if you can?

3 A Knowledgeable, the root word is knowledge or know, to
4 know.

5 Q What does the word Juhd mean, could you spell it?

6 A J-U-H-D.

7 Q That is the root for Jihad?

8 A I think Jihd is the root, Jihd.

9 Q Didn't you just testify that the word --

10 THE COURT: Now you are arguing with the witness.

11 MR. GOODMAN: I'm cross-examining, your Honor.

12 THE COURT: You are arguing with the witness.

13 Q So that the word Jihd is not the base or the radical for
14 the word Jihad, is it or isn't it?

15 A It is.

16 Q What does the word Jihd mean in English?

17 A To work hard.

18 THE COURT: We have a court reporter here. He has
19 to take down everything that everyone says in the Court.

20 Now if we are going the talk over each other, it's
21 going to be very difficult for him to do that and you also
22 have to slow down so that he can spell these difficult words.

23 What was the question again?

24 Q I understand the word means hard or difficult, is that
25 right?

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1 A To work hard.

2 THE COURT: Just a second, to work hard?

3 THE WITNESS: Yes, sir.

4 MR. GOODMAN: Thank you.

5 Q Jihad is a religious term for Muslims, is that right?

6 A Yes.

7 Q So when you say what everybody means when they use the
8 word Jihad, are you talking about what Muslims mean as well?

9 A Everybody.

10 Q Including Muslims?

11 A Yes, sir.

12 Q And with regard to how Muslims used that word, are you
13 familiar with how Muslims talk when they use this word in
14 conversation with one another?

15 A What is the question?

16 Q Are you a Muslim, ma'am?

17 A No, I'm not.

18 Q Are you familiar with Muslim society?

19 A I am.

20 Q Do you spend a lot of time talking to Muslim people?

21 A I started Koran, I started Islam, I memorized Hadith, I
22 memorized the Koran verses because I was raised in a Muslim
23 country.

24 Q But my question is, do you spend a lot of time conversing
25 with Muslims?

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1 A Yes, sir, many of my colleagues are Muslims.

2 Q So when they use that word Jihad, the people you speak
3 with, the Muslims you speak with, they mean only what you
4 said, holy war against infidels?

5 A Yes.

6 Q That's all they mean?

7 A Yes, and jokingly we say we do Jihad, they say oh, no,
8 don't say that, they shy away from the word Jihad because it's
9 UBL, Osama Bin Laden called all Muslims to join for the Jihad.

10 MR. GOODMAN: The witness is not responding to the
11 question at this time.

12 A I am.

13 THE COURT: Just a second. You only speak when a
14 question is asked.

15 Ask a question.

16 MR. GOODMAN: I will do so.

17 Q So when you say Muslims, when they use the word Jihad,
18 they say oh, no, don't use that word, you are talking about
19 Muslims in the United States or around the world?

20 A Around the world.

21 Q And this is based on --

22 A The moderate ones with, not the fanatic ones.

23 Q Around the world?

24 A Yes.

25 Q Have you been to Yemen?

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1 A No.

2 Q Ever?

3 A Ever but I listen --

4 THE COURT: No, no question is before you yet.

5 THE WITNESS: Yes, sir.

6 Q How long have you worked with the FBI?

7 A 23 years.

8 MR. GOODMAN: Nothing else at this time, your Honor.

9 THE COURT: Mr. Marks?

10 MR. MARKS: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. MARKS:

13 Q Good morning.

14 A Hello.

15 Q My name is Jonathan Marks and I represent Mr. Zayed.

16 I take it that you have never worked for defense
17 lawyers, right?

18 A Right.

19 Q You have spent the last 23 years working exclusively for
20 the FBI, yes?

21 A Yes.

22 Q And you have actually been part of the FBI team on this
23 investigation?

24 A Yes, sir.

25 Q Now, you told us that you went to Germany in November of

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1 2003?

2 A Correct.

3 Q Were you in Germany before that in connection with this
4 case?

5 A No.

6 Q And when you were in Germany in 2003, you were there with
7 a team of agents?

8 A Yes.

9 Q With Brian Murphy?

10 A Yes.

11 Q And Robert Fuller?

12 A Yes.

13 Q And you worked very closely with them in connection with
14 this investigation?

15 A Yes.

16 Q Now, you told us that, I believe, that you were on the
17 plain coming back from Germany in November after Mr. Zayed and
18 shake mood were extradited?

19 A Yes, sir.

20 Q And you were interpreting for the agents?

21 A Yes.

22 Q Now, you were interpreting when Special Agent Murphy was
23 interviewing Mr. Zayed?

24 A Yes.

25 Q And in the course of that session, did you keep any

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1 notes?

2 A He was.

3 Q But you did not?

4 A Mr. Murphy was.

5 Q But I'd like you to answer my question.

6 A No, I didn't.

7 Q Thank you.

8 And then you say that sometime later you reviewed
9 what's known as the 302, is that right?

10 A Yes.

11 Q Could you please tell the ladies and gentlemen of the
12 jury what a 302 is?

13 A It's the report about the interrogation that took place
14 on the plane between Mr. Murphy and Zayed and Mr. Murphy and
15 Al-Moayad.

16 Q And a 302 is a report of an entry or a report of a
17 surveillance or a report of anything that happens in the
18 course of an investigation?

19 A On the plane.

20 Q I'm talking about 302s in general.

21 A That is not my area of expertise.

22 THE COURT: So you don't know?

23 THE WITNESS: I don't know.

24 Q But you did review the report of the interview with Mr.
25 Zayed?

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1 A Yes, sir.

2 Q Can you tell us when it was that you looked at that
3 report for the first time?

4 A 2 days, a day or two after we returned from Germany.

5 Q It in typewritten form or handwritten?

6 A It was typed.

7 Q Did you make any changes in it?

8 A I did. And Brian Murphy --

9 THE COURT: No, there is no question before you.

10 Q And on the basis of your recollection of what had
11 happened on the plane after you made the changes, you believed
12 that the report was an accurate reflection of what Mr. Zayed
13 had said?

14 A Yes, sir.

15 Q I'd like to ask you some questions about this word Jihad
16 which you heard so much about.

17 A Sure.

18 Q When you were growing up in Egypt, you told us that you
19 memorized the Koran?

20 A Some of it, yes, parts of it.

21 Q The Koran consists of Surah?

22 A Yes.

23 Q And the Surah are portions of the Koran, right?

24 A Verses.

25 Q Verses.

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1 Q And you also mentioned something about the Hadith?

2 A It's the profit Mohammed's wordings, whatever he said and
3 he said it in kind of -- it's not like totally poetry but it's
4 like psalms.

5 Q Like parables?

6 A Yes.

7 Q Are you familiar with the parable, the Hadith in which
8 Mohammed said.

9 Withdrawn.

10 Are you familiar with the Hadith in which the profit
11 Mohammed met somebody who was going on a Jihad, a holy war,
12 and the profit asked him who are you with, do you recall that
13 one?

14 A No, not specifically.

15 Q Do you recall that the man said I?

16 MS. MOORE: Objection.

17 THE COURT: Sustained. She said she doesn't
18 remember.

19 MR. MARKS: I'm trying to refresh her recollection.

20 THE COURT: Sustained.

21 Q Do you recall a parable in which somebody said that he
22 was with his parents?

23 A Who?

24 Q The man, the profit Mohammed said he was with his
25 parents, does that ring a bell?

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1 A No.

2 Q I see.

3 You are familiar, are you not, that the word Jihad
4 in the Hadith and in the Surah of the Koran is used in several
5 different ways?

6 A Yes.

7 Q For example, there is something called, is there not,
8 Jihad Elnafs, E-L-N-A-F-S?

9 A Jihad Elnafs.

10 THE COURT: Now the question is are you familiar
11 with it, yes or no?

12 THE WITNESS: Yes.

13 Q And Jihad Elnafs is the duty to improve yourself in the
14 second life?

15 A Yes.

16 Q And then Jihad is also used in the sense of protecting
17 one's religion?

18 A Yes.

19 Q And protecting one's country?

20 A Yes.

21 Q Are you familiar with Abraham Surah?

22 A The meaning, yes.

23 Q Tell us what the meaning of Abraham Surah is?

24 MS. MOORE: Objection.

25 THE COURT: I'll allow it.

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1 Go ahead.

2 A Tell me, what is it, what is it about --

3 THE COURT: Just a second.

4 Did you understand his question?

5 THE WITNESS: He didn't say anything.

6 THE COURT: Just a second.

7 Do you understand the question, yes or no?

8 THE WITNESS: No.

9 THE COURT: Rephrase it.

10 Q Sure. My question is are you familiar with Abraham
11 Surah?

12 THE COURT: Yes or no.

13 A No.

14 THE COURT: Next question.

15 Q Is it fair to say that you were not brought up in a
16 religious Muslim family?

17 A When you are governed by Muslim government, the
18 television, the radio, the newspapers are all Muslims. I grew
19 up among Muslims. My best friends were Muslims. My aunts and
20 uncles who I said I called my aunt and uncle, we went with
21 them to trips and they were Muslims.

22 THE COURT: Just a second.

23 What was question again?

24 Q The question is whether you grew up in an orthodox Muslim
25 family?

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1 THE COURT: Yes or no.

2 A Of course not.

3 Q That's all I was asking.

4 And have you spent much time with Muslim cleris?

5 A Some.

6 MS. MOORE: Objection to relevance, your Honor.

7 THE COURT: I'll allow it.

8 A I, my teacher was one, my Arab teacher.

9 Q And he taught you Arabic?

10 A Es, sir.

11 Q He did he did not teach you Muslim theology?

12 A Yes, he did.

13 Q How old were you then?

14 A I was taught Arabic from the day.

15 THE COURT: How old were you then?

16 Q When he was your teacher.

17 A I was taught by Arab cleris for 18 years.

18 THE COURT: Just a second. The question was how old
19 were you then?

20 THE WITNESS: Then when?

21 Q If I can clarify?

22 A I was taught for years.

23 THE COURT: Remember, the court reporter, he can
24 take down the voices but there has to be one at a time.

25 A Sir, this question --

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1 THE COURT: Just a second. We can't all talk
2 together. We can sing together, we can hum together but we
3 can't talk together.

4 So when the lawyer talks, you have to keep quiet.
5 When you talk, he will keep quiet. Even when you talk, I'll
6 keep quiet.

7 Is there a question?

8 MR. MARKS: I'd like to ask a question.

9 THE COURT: Go ahead.

10 Q You told us that you learned Arabic from a Muslim cleric,
11 yes?

12 A Yes, sir.

13 Q What was his name?

14 A Muhsin, M-U-H-S-I-N.

15 Q Was he a sheikh?

16 A Yes.

17 Q And how long did you study under him?

18 A This particular cleric was teaching me high school for
19 three years.

20 Q He was your teacher in high school?

21 A Yes.

22 Q And the class was Arabic?

23 A Yes.

24 Q By the way, you mentioned you UBL earlier. That is the
25 FBI term for Osama Bin Laden, right?

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1 A I think it's used by many areas like some newspapers.

2 Q You have seen UBL in newspapers, have you?

3 A I believe oh, yes.

4 Q So you believe that -- have you ever seen UBL in any
5 other place besides newspapers?

6 A No.

7 Q So you think that UBL is a common term meaning Osama Bin
8 Laden?

9 A Usually we say Bin Laden.

10 Q But you said that sometimes it's used in newspapers. If
11 you think back, UBL is what the FBI uses to refer to Osama Bin
12 Laden, is that right?

13 A Actually, I read it in New York Time Magazine, UBL.

14 Q UBL?

15 A Yes, sir.

16 THE COURT: No getting plugs in.

17 Q Can we have the tape of Exhibit 4, please.

18 Do you have Exhibit 4 there, the tape, the CD?

19 A Yes.

20 Q May I have it, please.

21 A 1, two, three, four.

22 Q Thank you very much.

23 Am I right that Government's Exhibit 4 in evidence
24 is the recording that you listened to in order to prepare what
25 has been marked as T-4 in evidence which is the transcript?

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1 A Yes.

2 MR. MARKS: Your Honor, I'm not technical.

3 Q Let's start with T-5, if I may, please.

4 Do you have the transcripts in front of you? Turn
5 them over so you can't look at them.

6 MS. MOORE: Objection, your Honor.

7 THE COURT: What is this for?

8 MR. MARKS: This is to demonstrate, your Honor, that
9 there is something on the tape which the witness has
10 mistranslated. I'd like her to hear the CD and to tell us
11 what it says.

12 THE COURT: This is in Arabic.

13 Do you speak Arabic?

14 MR. MARKS: No, but the witness can understand
15 Arabic. I'd like her to listen to something in Arabic and to
16 tell us what it says, to translate it.

17 THE COURT: How do you know it will be
18 mistranslated?

19 MR. MARKS: Because we know it's been mistranslated
20 in transcript and I want to demonstrate that.

21 THE COURT: What do you want her to do park?

22 MR. MARKS: Listen to a portion of the CD. I want
23 her to tell us what that portion is in English. I'd like her
24 to translate it from the standard English, then I'd like her
25 to compare what she says was said on the tape with what she

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1 wrote in the transcript.

2 THE COURT: Go ahead.

3 MR. MARKS: Thank you.

4 MS. MOORE: Your Honor, can we have a sidebar on
5 this?

6 THE COURT: Why do we need a sidebar?

7 MS. MOORE: It's akin to ask a ballistics expert to
8 reexamine a bullet. That's not not the way it works that's
9 not the way ballistics expert work.

10 THE COURT: I'm not going to let him do it.

11 A Can I say something.

12 MR. MARKS: No?

13 THE WITNESS: I am asking the judge.

14 THE COURT: That is right. What is it?

15 THE WITNESS: I usually cannot translate in the
16 open. I like to have my headset.

17 THE COURT: Okay.

18 MR. MARKS: Can we get the witness a headset.

19 MS. MOORE: They are right there.

20 MR. MARKS: Here is a headset.

21 MR. MARKS: Can we use your equipment. This is not
22 mine, this is Mr. Goodman's and it is froze and he was doing
23 this as an accommodation to me so I'd like to use the
24 government's equipment, your Honor.

25

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1 MS.CHEN: May I give one instruction to the witness
2 so that she can turn this on.

3 If you look at the bottom of the headset, you'll
4 notice the on/off switch. You should turn it to the left and
5 then slowly increase the volume. You may want to put it on
6 first to make sure it's not too loud.

7 THE WITNESS: All right.

8 Q Can you put the headset on.

9 A It's on.

10 Q I'd like to you listen to and tell us what Mr. Zayed
11 says.

12 (Whereupon, the tape was played.)

13 MR. MARKS: I'm sorry, judge, can we take a five
14 minute break?

15 THE COURT: No.

16 THE COURT: Have you heard anything?

17 THE WITNESS: No.

18 THE COURT: Let's go on to something else then.

19 MR. MARKS: Judge, I have intensive examination but
20 it's all line these same lines so we have to get this
21 equipment working.

22 THE COURT: That is your problem. We have to move
23 ahead.

24 MR. MARKS: Maybe with the government's assistance.

25 (Pause.)

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1 Q Put the earphones on. Can you hear anything?

2 A Okay.

3 Q When you hear Mr. Zayed say something, raise your hand,
4 won't you?

5 THE COURT: Just a second. What are you playing for
6 the witness.

7 MR. MARKS: T 45 at 1245.

8 MS. MOORE: That is not correct, he walked out of
9 the room.

10 MR. MARKS: At 1245 on the 1 the government gave me,
11 that is the one that I'm using, your Honor.

12 THE COURT: Mr. Marks, you have to get yourself
13 organized.

14 MR. MARKS: Your Honor, I am relying on the
15 government's times. On the CD that the government gave me, it
16 says 12:45.

17 THE COURT: Whatever happens, your machine is not
18 working, their machine is not working and you are holding up
19 these court proceedings.

20 Let's go on to something else.

21 MR. MARKS: I can't because it all depends on this.
22 That's why I'd like a short break and we'll zip through this.

23 THE COURT: No more breaks.

24 Do you have anything else?

25 MR. GOODMAN: Yes, I do.

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1 MS. MOORE: Your Honor.

2 THE COURT: I'll let you redirect with respect to
3 the cross already and.

4 MS. MOORE: I don't have any redirect, your Honor.

5 THE COURT: I'm going to give you 10 minutes to
6 solve your problem, Mr. Marks. If not, you have finished your
7 cross-examination.

8 MR. MARKS: Thank you, judge. I greatly appreciate
9 it.

10 THE COURT: Okay, ladies and gentlemen.

11 (Jury out at 11:45 a.m.)

12 (Recess.)

13 (Jury in at 12:05 p.m.)

14 THE COURT: Go ahead.

15 MR. MARKS: Thank you.

16 Your Honor, let me explain. The government's
17 equipment is not working so we are going to use this equipment
18 now but unfortunately, that is not hooked up to the
19 headphones.

20 MS. MOORE: I think that it's somewhat futile if she
21 needs headphones. The whole exercise is somewhat futile.

22 CROSS-EXAMINATION BY MR. MARKS: (Continued)

23 Q I'd like you to listen to this and tell us when you hear
24 Mr. Zayed speak and tell us what he says.

25 (Whereupon, the CD was played.)

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1 Q Did you hear Mr. Zayed speak?

2 A No.

3 Q I wonder if you can just come down here with the Court's
4 permission.

5 THE COURT: Go ahead.

6 Q Did you hear Moayad say: They may say in Lebanon, in
7 Syria, in Iraq an area according to what they think is best,
8 did you hear him say that?

9 A Yes.

10 Q Then did you hear Zayed say anything after that?

11 A No.

12 Q Did you hear the words itha indahum --

13 A I don't understand.

14 Q Itha indahum al istitia'a --

15 THE COURT: Mr. Marks, this is not going too well.

16 MR. MARKS: Maybe it will if your Honor will bear
17 with me.

18 Did you hear the word Itha indahum al istitia'a?
19 Did you hear those words?

20 A No, but I understand you now.

21 Q What did I say?

22 A If they have capability.

23 Q You did not hear those words?

24 A No.

25 Q Okay. Could we please go --

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1 A But then, I don't have my headset.

2 THE COURT: Nothing has been asked of you. You
3 didn't hear it.

4 MR. MARKS: Here is the problem, your Honor, without
5 the headset, it's very difficult to do.

6 Can we take an early lunch?

7 THE COURT: We are going to move right on,
8 Mr. Marks.

9 MR. MARKS: Could we please go to 2705 on that CD,
10 page 60.

11 (Pause.)

12 (Whereupon, the CD was played.)

13 MR. MARKS: Your Honor, perhaps the witness can come
14 down and just listen closer to the speakers.

15 Can she do that, your Honor?

16 THE COURT: Yes, she can.

17 Q I want you to tell us if you can hear what Mr. Zayed says
18 and if so, what does he say.

19 (Whereupon, the CD was played in court.)

20 THE COURT: Do you have a question?

21 Are you finished?

22 MR. MARKS: No, your Honor, we're coming up to that
23 part. Just a few seconds.

24 (Whereupon, the CD was played in court.)

25 Q Did hear Mr. Zayed speak?

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1 A Yes.

2 THE COURT: Just a second.

3 Come back to the stand.

4 THE WITNESS: Yes.

5 Q Can you tell us what he said?

6 A Why can't you read my transcript?

7 Q Because it's incorrect.

8 THE COURT: No, you are testifying and I'm going to
9 strike that.

10 I say, ladies and gentlemen, whatever layers say in
11 this trial is not evidence so whatever Mr. Marks said is not
12 evidence.

13 Q What did he say?

14 A He said -- I forgot but he said that -- he was asking
15 Zayed if you have the baya for the sheik, and Zayed said yes,
16 he does.

17 I am not going to memorize every word that he said
18 but he said we always have the baya for the sheik. Then after
19 that, he said something about if we have, if we do it,
20 something like that.

21 I don't memorize it.

22 MR. MARKS: Perhaps we can go back to it after lunch
23 when we listen to it.

24 A If we can.

25 THE COURT: No, nothing has been asked. Ask another

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1 question, Mr. Marks.

2 MR. MARKS: Can we go to Exhibit 4.

3 MR. MARKS: Your Honor, I'm going to move on to
4 another area because this technically doesn't seem to be going
5 very well.

6 Q Let me ask you this.

7 Did you compare the Arabic that Sheikh Moayad and
8 Mr. Zayed were speaking with the translation by Mr. Al Anssi?

9 A Yes.

10 MS. MOORE: Objection.

11 Q And am I right that in many instances he mistranslated
12 what they said?

13 A Yes.

14 Q In some cases, he added things?

15 A Yes.

16 Q In other instances, he subtracted things?

17 A Yes, he did.

18 Q And similarly, when he appears to translate what Saeed
19 Sharif is saying in English into Arabic, he mistranslates
20 that too?

21 A Sometimes, yes.

22 Q So that if you were to listen to what Mr. Al Anssi says
23 in English, you would not get an accurate account of what the
24 conversation was in Arabic, is that fair to say?

25 A Saeed Sharif drifts.

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1 Q Listen to my question if you would and just tell us. Is
2 it fair to say that by just listening to Al Anssi's English,
3 in many instances you do not get an accurate account of the
4 conversation in Arabic, is that fair to say?

5 A No.

6 Q You just -- Saeed Sharif?

7 THE COURT: The answer is no, let's go on.

8 Q You just told us that Mohammed Al Anssi mistranslates in
9 some cases?

10 A Only Saeed Sharif.

11 Q He mistranslates?

12 A What CI-2 says.

13 Q He mistranslates that?

14 A Yes.

15 Q Does he also mistranslate what Shiekh Al-Moayad says?

16 A No.

17 Q You are saying that his translations?

18 A Most of the time are very accurate.

19 Q But can you think of any instances in which he was
20 inaccurate?

21 A Yes, he was inaccurate in some instances.

22

23

24 (Continued on next page.)

25

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1 CROSS-EXAMINATION (Cont.'d)

2 BY MR. MARKS:

3 Q Anything significant?

4 THE COURT: I will sustain that.

5 MR. MARKS: Okay.

6 Q Is it a fair statement that in some instances he
7 completely mistranslates what Sheikh Al-Moayad said?

8 A No.

9 (Pause in proceedings.)

10 THE COURT: Let's go.

11 MR. MARKS: Okay, we're going, Judge. I'm sorry, I
12 wasn't prepared to go this far.

13 THE COURT: Do you have a question, Mr. Marks?

14 MR. MARKS: I do, Judge.

15 Q Do you remember a message in which Sheikh Al-Moayad
16 says --

17 MR. MARKS: Excuse me, Judge.

18 (Pause in proceedings.)

19 THE COURT: Mr. Marks, please.

20 MR. MARKS: I'm sorry, Judge, if we didn't have the
21 technical snafu, I wouldn't be making such a fool of myself.
22 Just give me one second, please, Judge.

23 (Pause in proceedings.)

24 MR. MARKS: Just give me one second, Judge.

25 THE COURT: You said that about ten minutes ago.

1 MR. MARKS: I know, Judge. It is not my style.

2 Forgive me.

3 Judge, could we break for lunch at 12:30?

4 THE COURT: No.

5 MR. MARKS: Okay. I'm doing my best, Judge. I
6 don't want to take the jury's time, certainly not the Court's
7 either.

8 THE COURT: The jury will get lunch. We will wait
9 until I get the word that the lunch is here.

10 MR. MARKS: Okay, fine. Thank you.

11 Q In any event, it is your testimony that there were never
12 any instances in which there was a material mistranslation?

13 THE COURT: Sustained.

14 Q Was there ever a mistranslation that you considered
15 important?

16 MS. MOORE: Objection.

17 THE COURT: I will allow that.

18 A From, to?

19 Q From Sheikh Al-Moayad to Al-Anssi, that is, where Sheikh
20 Al-Moayad says something in Arabic and Mohamed Al-Anssi
21 mistranslated it?

22 A Yes.

23 Q There were such instances?

24 A Few.

25 Q A few?

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1 A Very few.

2 Q Do you remember any?

3 A No. Nothing major.

4 (Pause in proceedings.)

5 THE COURT: Let's go on. Go on to something else.

6 MR. MARKS: Unfortunately, those are my two areas,

7 Judge.

8 THE COURT: You're going to lose them.

9 MR. MARKS: It is a technical problem. I guess I
10 have to sit down.

11 THE COURT: Okay. Anything else, Ms. Moore?

12 MS. MOORE: No, your Honor.

13 THE COURT: You can step down.

14 MR. GOODMAN: Your Honor, I wonder if I may have a
15 moment of recross?

16 THE COURT: I'll say no.

17 MS. MOORE: There was no redirect, your Honor.

18 THE COURT: No redirect, so no recross.

19 You can step down. Next.

20 MS. CHEN: The government calls Navine Aziz.

21 N A V I N E A Z I Z , called as the witness
22 herein, having been first duly sworn, testified as follows:

23 THE COURT: State and spell your name for the
24 record. Take a seat.

25 THE WITNESS: N-a-v-i-n-e A-z-i-z.

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1 DIRECT EXAMINATION

2 BY MS. CHEN:

3 Q Good morning.

4 Ms. Aziz, I'm going to ask you to speak in the
5 microphone so everyone can hear you.

6 A Okay.

7 Q Where were you born, Ms. Aziz?

8 A I was born in Egypt.

9 Q Where did you grow up?

10 A Egypt, until the age of 13, and then I moved to the
11 United States.

12 THE COURT: Then you did what?

13 THE WITNESS: I moved to the United States.

14 Q What year did you move to the United States?

15 A 1977.

16 Q I think you said a moment ago you were 13 at that time?

17 A Yes.

18 Q Have you lived continuously in the United States since
19 that time?

20 A Yes, I did.

21 Q And what language did you speak growing up in Egypt?

22 A Arabic.

23 Q Did you maintain your Arabic after coming to the United
24 States?

25 A Yes, I did.

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1 Q How did you do that?

2 A Reading, watching Arabic television, speaking with my
3 family on daily basis.

4 Q Was the primary language spoken in your family Arabic?

5 A Yes.

6 Q Did you attend high school in the United States?

7 A Yes, I did.

8 Q Did you also attend college here?

9 A Yes, I did.

10 Q Where did you go?

11 A Rutgers University.

12 Q What was your college degree in?

13 A Biology.

14 Q When --?

15 THE COURT: Just a second.

16 You went to Rutgers. Is that in Camden or in
17 Northern New Jersey?

18 THE WITNESS: I went to the Newark campus.

19 THE COURT: Okay.

20 Q You said you got a degree in biology; is that correct?

21 A Yes.

22 Q What year did you get that degree?

23 A 1987.

24 Q Where do you currently work?

25 A I work for the FBI.

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1 Q How long have you worked for the FBI?

2 A Three years.

3 Q And did you begin as a contract employee for the FBI?

4 A Yes, I did.

5 Q At some point did you become a full-time employee?

6 A Yes, I did.

7 Q When was that?

8 A June of about 2003.

9 Q What do you do at the FBI?

10 A I'm a language specialist.

11 Q Have you always been a language specialist at the FBI
12 since beginning as a contract employee?

13 A Yes.

14 Q What are your responsibilities as a language specialist
15 at the FBI?

16 A Mainly translation and interpretation.

17 Q What is the difference between translation and
18 interpretation?

19 A Usually translation refers to paper documents and
20 interpretation in interviews and in translating speech.

21 Q What language do you interpret from into?

22 A Arabic into English.

23 Q Do you also interpret from English into Arabic?

24 A Yes, I do.

25 Q How much of your job involves translation or

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1 interpretation?

2 A One hundred percent.

3 Q Is Arabic a language in which you can get certification
4 by the court?

5 A I don't believe so.

6 Q Did you have to take an exam, however, to become a
7 language specialist in Arabic at the FBI?

8 A Yes, I did.

9 Q How long was that exam?

10 A Around I would say four, five hours.

11 Q How many parts did it have?

12 A Four parts.

13 Q Did it test your skills both in written and oral
14 translation and interpretation?

15 A Yes.

16 Q When did you take that exam?

17 A November of 2001.

18 Q Did you pass it at the first try?

19 A Yes, I did.

20 Q Would you say you're more fluent in Arabic or English?

21 A I would say equally in both.

22 Q Are there different dialects in Arabic?

23 A Yes, there are.

24 Q What is your native dialect?

25 A Egyptian.

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1 Q What dialect have you done translation work in?

2 A Many. I've done Sudanese, Libyan, Yemeni, Palestinian,
3 Lebanese, Syrian. I don't know if I missed any.

4 Q How about Iraqi?

5 A Yes, Iraqi.

6 Q You said many, correct?

7 A Yes.

8 Q Has your work at the FBI been concentrated in a
9 particular type of translation?

10 A Mostly monitoring.

11 Q When you say "monitoring," what do you mean?

12 A Audio recordings, translation of audio recordings.

13 Q So, most of your work involves translation of recorded
14 conversation?

15 A That is correct.

16 Q Does that include wiretaps and surveillance videos?

17 A Yes, it does.

18 THE COURT: Just a second, Ms. Chen. The food is
19 here for the jury and we'll stop now, let them go to lunch.
20 The lunch is here and we'll resume at 1:45.

21 (The jury exits the courtroom.)

22 (Lunch recess.)

23

24

25

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1 A F T E R N O O N S E S S I O N .

2 MS. CHEN: Should we put the witness on the stand
3 before the jury comes back in?

4 THE COURT: Which witness?

5 MS. CHEN: Ms. Aziz.

6 THE COURT: Yes, bring her back in.

7 (The jury enters the courtroom.)

8 THE COURT: Be seated, ladies and gentlemen. You
9 look well fed. Okay, you may resume, Ms. Chen.

10 MS. CHEN: Thank you, your Honor.

11 DIRECT EXAMINATION (Cont.'d)

12 BY MS. CHEN:

13 Q Ms. Aziz, before the break you had mentioned that most of
14 your work at the FBI involves translating recorded
15 conversation?

16 A That's correct.

17 Q How much of your time would you estimate is devoted to
18 translating recorded conversations?

19 A I would say about 80 percent.

20 Q Approximately how many hours of recorded conversations
21 have you translated?

22 A Over the three-year period?

23 Q Correct.

24 A Thousands.

25 Q Prior to this case, had you ever translated conversation

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1 that was spoken in the Yemeni dialect?

2 A Yes.

3 Q Approximately how many hours of Yemeni conversations
4 would you estimate you've translated?

5 A I would say hundreds.

6 Q Now, over the course of your three years as FBI
7 translator, approximately how many Arabic, English
8 translations have you prepared?

9 A Again, hundreds.

10 Q Have you been qualified previously as an expert in Arabic
11 and in the translation of Arabic to English?

12 A Yes, I was.

13 Q And was that in federal or state court?

14 A Federal.

15 MS. CHEN: At this time, your Honor, the government
16 tenders Ms. Aziz as an expert in translation of Arabic to
17 English and English to Arabic.

18 THE COURT: Mr. Goodman.

19 MR. GOODMAN: I have no voir dire. We will accept
20 the witness.

21 MR. MARKS: Same here, Judge.

22 THE COURT: You are an expert.

23 Q Ms. Aziz, were you asked to prepare translations in this
24 case?

25 A Yes, I was.

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1 MS. CHEN: May I approach, your Honor?

2 THE COURT: You may.

3 Q Ms. Aziz, I place before you Government's Exhibit 7
4 through 12, Government's Exhibit T7 through T12 and, also,
5 Government's Exhibit 48 through 53.

6 Can you tell me what Government's Exhibit 7 through
7 12 are.

8 A They are record conversations that I transcribed.

9 Q Are those on video?

10 A Yes, they are.

11 Q How do you recognize them as the same ones you
12 translated?

13 A I initialed them after translation.

14 Q Approximately how many hours of conversation are recorded
15 in Government's Exhibit 7 through 12 in total?

16 A In total, these are the total.

17 Q They are listed?

18 A Yes. I would say about two hours total.

19 Q What language are spoken on those videos?

20 A Arabic mostly. Maybe a couple of words in English.

21 Q What are Government's Exhibit T7 through T12?

22 A Written translation of those conversations.

23 Q Can you describe how you prepared Government's Exhibit T7
24 through T12?

25 A Well, I would use a computer to play the DVDs and I would

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1 use earphones to listen carefully and transcribe as I went
2 along.

3 Q And did you transcribe directly from Arabic into English?

4 A Yes, that's correct.

5 Q How many times did you review the videos in preparing the
6 transcripts?

7 A Many, many, many times.

8 Q Were there certain passages that you went over even more
9 than that?

10 A Yes.

11 Q Did you also use any special equipment to slow down the
12 videos, certain portions, so you could go over them more
13 carefully?

14 A Yes, special software to slow the speech down.

15 Q Now, who participated in the conversation in Government's
16 Exhibit 7 through 12?

17 A Two defendants and CI-1.

18 Q You say "CI." Are you referring to confidential
19 informant?

20 A Yes, I am.

21 Q In your translations did you attribute statements to the
22 defendant and, also, to CI-1?

23 A Yes.

24 Q How did you do that?

25 A Based on observing them on the video and on voice

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1 recognition.

2 Q How were you able to do the voice recognition?

3 A After you listen to the conversation for so many times
4 you learn whose voice is whose.

5 Q Were you able to hear every word that was on those
6 videos?

7 A Not every word.

8 Q When you couldn't hear something, how did you indicate
9 that?

10 A I indicated it with UI.

11 Q You say the initials UI?

12 A That's correct.

13 Q What does it stand for?

14 A Unintelligible.

15 Q Were there some places in the video where the audio
16 simply dropped out?

17 A Yes.

18 Q Approximately how many minutes of dropout are in the
19 recordings that you listened to that are approximately two
20 hours in total?

21 A I would say under five minutes.

22 Q Now, if English words were used, how did you indicate
23 that?

24 A Underlined.

25 Q Were there also some words you left in Arabic in the

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1 final transcript?

2 A Yes.

3 Q How did you identify those?

4 A They are in italic.

5 Q Now, do your transcripts also include what are called
6 translator notes or TN?

7 A That's correct.

8 Q Why did you put those in there?

9 A To clarify the meaning.

10 Q Clarify the meaning of the conversation?

11 A Of that specific sentence or word previous.

12 Q Are Government's Exhibit T7 through T12 fair and accurate
13 translations and transcriptions of the conversations contained
14 in Government's Exhibit 7 through 12?

15 A Yes.

16 MS. CHEN: Your Honor, the government moves the
17 admission of Government's Exhibit T7 through T12.

18 MR. GOODMAN: No objection, your Honor.

19 MR. MARKS: No objection, Judge.

20 THE COURT: Received.

21 Q Now, Ms. Aziz, I would like you to look at what has been
22 marked as Government's Exhibit 48 through 53 which are sitting
23 before you?

24 Can you tell me what those are.

25 A These are the complete DVDs from which these

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1 conversations were taken, Exhibit 7 through 12.

2 Q In other words, are you saying that Exhibits 7 through 12
3 are excerpts from Exhibits 48 through 53?

4 A Yes, that's correct.

5 Q Is it also correct that Exhibits 48 through 53 contain
6 some conversations that are not in 7 through 12?

7 A Yes, that's correct.

8 Q Now, were you asked to translate the other conversations
9 that are contained in 48 through 53?

10 A No, I was not.

11 Q Did you, nonetheless, listen, however, to the tapes in 48
12 through 53 in their entirety?

13 A Yes, I did.

14 Q Now, are you aware of any other recorded conversations
15 that were translated in connection with this case?

16 A Yes.

17 Q Who prepared those translations?

18 A Amira Soliman.

19 Q Are you familiar with the conversations that were
20 transcribed --?

21 THE INTERPRETER: Your Honor, the interpreter would
22 like to ask the Court to -- sorry, the AUSA to slow down. I
23 have really trouble to follow.

24 THE COURT: Slow down. You have the court reporter
25 and you've got the translator there.

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1 MS. CHEN: Certainly, your Honor.

2 THE INTERPRETER: Thank you very much. Thank you,
3 your Honor.

4 MS. CHEN: Do you want me to repeat anything?

5 THE INTERPRETER: Just the last question, please.

6 Q Who prepared those translations?

7 A Amira Soliman.

8 Q Are you familiar with the conversations translated by
9 Ms. Soliman

10 A Somewhat.

11 Q I would like to briefly go through the transcripts you
12 prepared, Government's Exhibit T7 through T12. Starting with
13 Government's Exhibit 7 and Transcript Exhibit T7, can you tell
14 me when that conversation took place?

15 A January 8, 2003.

16 Q Approximately what time did it start?

17 A 9:37 p.m.

18 Q Where does that conversation take place?

19 A In a hotel room in Germany.

20 Q Is that room 6222?

21 A Yes, that's correct.

22 Q Do you know who was staying in that room at that time?

23 A At that time it was the two defendants.

24 Q Who participated in that conversation in Government's
25 Exhibit 7?

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1 A The two defendants.

2 Q Were they by themselves?

3 A Yes.

4 Q Is Government's Exhibit T7 your translation of that
5 conversation?

6 A Yes.

7 Q Turning to Government's Exhibit No. 8. When was that
8 conversation?

9 A That was on January 8, 2003.

10 Q Approximately what time?

11 A 10:38 p.m.

12 Q Who participated in that conversation?

13 A The two defendants and CI-1.

14 Q Where did it take place?

15 A The same hotel room.

16 Q In the defendant's room?

17 A Yes, that's correct.

18 Q Was that conversation about 20 minutes in length?

19 A Yes, it was.

20 Q And does Government's Exhibit T -- is Government's
21 Exhibit T8 your translation of that conversation?

22 A Yes, it is.

23 Q Turning now to Government's Exhibit No. 9. When did that
24 conversation take place?

25 A 1/9/2003.

Aziz-direct/Chen

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1 Q Approximately what time?

2 A 1:33 p.m.

3 Q Was that conversation about eight minutes long?

4 A Yes, it was.

5 Q Who participated in that conversation?

6 A The two defendants.

7 Q By themselves?

8 A Yes.

9 Q Where did that conversation take place?

10 A The same room, 6222.

11 Q Now, in the beginning of that conversation does there
12 appear to be someone else in the room besides the defendants?

13 A Yes.

14 Q How can you tell that?

15 A Because there was a loud rustling noise that you could
16 hear but you could not see, so I assumed somebody else was in
17 the room.

18 Q Was it also apparent to you that the sound was not coming
19 from one of the defendants?

20 A Yes, it was.

21 Q Now, is that person in the living room area where the
22 camera was focused?

23 A No, that person was not.

24 Q Did you hear a sound that indicates that the person left
25 somewhat early in the conversation?

Aziz-direct/Chen

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1 A Yes.

2 Q Is Government's Exhibit T9 your translation of that
3 conversation?

4 A Yes.

5 Q Looking now at Government's Exhibit 12 -- I'm sorry, not
6 12, I apologize, number ten.

7 A Okay.

8 Q Got ahead of myself.

9 When did that conversation take place.

10 A 1/9/2003.

11 Q About an hour after the last one?

12 A Yes, that's correct.

13 Q Was that also about an eight-minute conversation?

14 A Yes, it was.

15 Q Who was involved in that one?

16 A The two defendants and CI-1.

17 Q Is Government's Exhibit T10 your translation of that
18 conversation?

19 A Yes, it is.

20 Q Looking now at Government's Exhibit number 11, when was
21 that one?

22 A That was on 1/9/2003.

23 Q At approximately what time?

24 A 7:36 p.m.

25 Q Was that p.m. or a.m.?

Aziz-direct/Chen

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1 A PM.

2 Q Oh, my apologies, you're right.

3 How long was that conversation approximately.

4 A That one is about, I'm not sure, 20 minutes, half hour.

5 Q Who participated in that one?

6 A The two defendants.

7 Q And is Government's Exhibit T11 your translation of that
8 conversation?

9 A Yes.

10 Q And, finally, looking at Government's Exhibit 12, when
11 was that conversation?

12 A That was on 1/10/2003.

13 Q Approximately what time?

14 A 7:29 a.m.

15 Q That one is in the morning; is that correct?

16 A Yes, correct.

17 Q Was that conversation about an hour long?

18 A Yes, it was.

19 Q Who was involved in that one?

20 A The two defendants and CI-1.

21 Q Now, in that transcript, did the defendant Al-Moayad use
22 the word in arabic haram?

23 A Yes, he did.

24 Q I know I'm probably mispronouncing it. What does haram
25 mean?

Aziz-direct/Chen

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1 A Things are forbidden by sharia or Islamic law.

2 Q Spell the word haram.

3 A H-a-r-a-m.

4 THE COURT: H-a-r-a-m?

5 THE WITNESS: M, as in mom.

6 Q Can you also spell sharia?

7 A S-h-a-r-i-a.

8 Q What kinds of things are forbidden under haram or the
9 term sharia?

10 A For example, the use of liquor, eating pork, putting your
11 money in a bank and getting interest on it, things of that
12 sort.

13 Q Would haram also include jihad?

14 A No.

15 Q I'm going to show you what has been marked as
16 Government's Exhibit 14 and 15 and T14 and T15.

17 MS. CHEN: May I approach, your Honor?

18 THE COURT: Yes.

19 Q Can you tell me what those are?

20 A These are recordings of phone calls and the corresponding
21 translation.

22 Q And did you view the -- or review the audiotapes that
23 are in Government's Exhibits 14 and 15?

24 A Yes, I did.

25 Q How do you know they are the same ones you reviewed?

Aziz-direct/Chen

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1 A Because I initialed them after reviewing them.

2 MS. CHEN: Your Honor, the government offers
3 Exhibits 14 and 15 subject to connection.

4 MR. MARKS: No objection, your Honor.

5 MR. GOODMAN: No objection.

6 THE COURT: Received.

7 Q Looking first at Government's Exhibit 14, can you tell me
8 when that conversation occurred?

9 A 7/9/02.

10 Q Meaning July 9, 2002?

11 A That's correct.

12 Q Was that a conversation in person or over the phone?

13 A There are two phone calls. One is a recorded message on
14 somebody's answering machine and the second is between two
15 people.

16 Q And who was the message from in the first call?

17 A The first phone call was a message from Sheikh Al-Moayad.
18 I'm not sure, it doesn't really state to whom, but it says --
19 I'm sorry, no, it doesn't.

20 Q How do you recognize the voice to be Sheikh Al-Moayad?

21 A I recognize his voice and he does identify himself.

22 Q Who participated in the second call recorded on
23 Government's Exhibit 14?

24 A Sheikh Al-Moayad and CI-1.

25 Q How do you know that?

Aziz-direct/Chen

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1 A I recognize their voice and they identified themselves.

2 Q What language were the two recordings in in Government's
3 Exhibit 14?

4 A Arabic.

5 Q Is Government's Exhibit T14 the translation you prepared
6 for Government's Exhibit 14?

7 A Yes.

8 Q Is Government's Exhibit T14 a fair and accurate
9 translation of the conversation?

10 A Yes, it is.

11 MS. CHEN: Your Honor, the government offers Exhibit
12 T14, subject to connection.

13 MR. GOODMAN: No objection, your Honor.

14 MR. MARKS: No objection.

15 THE COURT: Received.

16 Q Looking now at Government's Exhibit 15, when did that
17 conversation take place?

18 A August 13th, 2002.

19 Q How many conversations were recorded in that recording?

20 A Two.

21 Q And were those conversations in person or on the
22 telephone?

23 A On the telephone.

24 Q Who was involved in the first conversation?

25 A An unknown female and CI-1.

Aziz-direct/Chen

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1 Q Who was involved in the second conversation?

2 A Sheikh Al-Moayad and CI-1.

3 Q What language are both conversations in?

4 A Arabic.

5 Q Is Government's Exhibit T15 the translation of
6 Government's Exhibit 15?

7 A Yes.

8 Q Is it a fair and accurate translation?

9 A Yes.

10 MS. CHEN: Your Honor, the government offers
11 Government's Exhibit T15, subject to connection.

12 MR. MARKS: No objection, your Honor.

13 MR. GOODMAN: No objection.

14 THE COURT: Received.

15 MS. CHEN: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 Q Ms. Aziz, I just handed you what's marked Government's
18 Exhibit 20 and Government's Exhibit T20. Do you recognize
19 those?

20 A Yes.

21 Q Can you tell me, first of all, what Government's Exhibit
22 20 is?

23 A Printout from an Internet news agency.

24 Q Which Internet news agency?

25 A Al Ahwa dot net.

Aziz-cross/Goodman

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1 Q Can you spell it for the court reporter?

2 A A-l A-h-w-a dot net.

3 Q Is that an article that you reviewed and translated?

4 A Yes.

5 Q How do you recognize it as such?

6 A I initialed it after translation.

7 MS. CHEN: Your Honor, the government offers
8 Government's Exhibit 20 subject to connection.

9 THE COURT: Received.

10 Q What language is that article in?

11 A Arabic.

12 Q What is Government's Exhibit T20?

13 A It is a translation of that article into English.

14 Q Is that a fair and accurate translation?

15 A Yes.

16 MS. CHEN: Your Honor, the government offers Exhibit
17 T20 subject to connection.

18 THE COURT: Received.

19 MS. CHEN: Nothing further, your Honor.

20 THE COURT: Cross.

21 MS. CHEN: Your Honor, may I approach and collect
22 the exhibit?

23 THE COURT: You can.

24 CROSS-EXAMINATION

25 BY MR. GOODMAN:

1 Q Good afternoon, Ms. Aziz.

2 A Good afternoon.

3 Q My name is Bill Goodman. I represent Sheikh Al-Moayad
4 and I will ask you some questions?

5 The first question is with regard to Exhibit 7
6 through 12 and T7 through T12, I'm not quite sure I understand
7 the process how you got Exhibit 7, 8, 9, 10, 11, 12.

8 THE COURT: 7 through 12 inclusive.

9 MR. GOODMAN: Yeah.

10 A How I reviewed the actual DVDs?

11 Q Yeah.

12 A They were given to me by investigators in the case.

13 Q So, they had been preselected out of longer recordings;
14 is that correct?

15 A Yes.

16 Q And you don't know how that preselection was done; is
17 that correct?

18 A That's correct.

19 Q They were just given to you to translate?

20 A That's correct.

21 Q What else might have been recorded, the entirety of what
22 was recorded you don't know; is that right?

23 A Well, I did also review the entire DVD that that portion
24 came from.

25 Q Do you know whether the entire DVD that you reviewed was

1 the entirety of the universe of all recordings that were made
2 of these gentlemen?

3 A No, I don't.

4 Q And how the DVD -- going back to my other question,
5 withdraw that. How -- what else was said other than what was
6 on the DVD, you don't know and you didn't listen to; is that
7 correct?

8 A That's correct.

9 Q Now, I want to ask you a little bit about, if I may, some
10 Arabic words that you maintained in your English translation.

11 THE COURT: Just a second, Mr. Goodman. When you
12 mention these Arabic words, I want you to go slow and spell
13 them out for the court reporter.

14 MR. GOODMAN: I shall, your Honor.

15 THE COURT: That goes for you, madam witness.

16 THE WITNESS: Yes, sir.

17 Q You indicated that you did put some Arabic words in your
18 English translations; is that right?

19 A That's correct.

20 Q These are translations, they are not interpretations; is
21 that correct?

22 A That's correct.

23 Q So, just to be quite clear on that, when you listened to
24 the recordings, did you transcribe them first into Arabic?

25 A No, I did not.

1 Q You transcribed directly from the audio what you heard,
2 the audio Arabic into written English; is that correct?

3 A That's correct.

4 Q But when you used an Arabic word, you put it in italics
5 so that we will know this is an Arabic word; is that correct?

6 A Yes.

7 Q The first word I want to ask you about is the word jihad,
8 j-i-h-a-d.

9 A Okay.

10 Q This is a word that came up a few times; is that right?

11 A Yes, that's correct.

12 Q And this is a word which has how many meanings?

13 A In the context it was used one.

14 Q Forgetting the context at the moment, when one uses that
15 word, it might mean many things, depending on the context;
16 isn't that right?

17 A I wouldn't say many.

18 Q Several?

19 A A couple.

20 Q It can mean a personal inner struggle, can it not?

21 A I've consulted about five dictionaries and it is only
22 translated that way once.

23 Q Let me just ask you whether or not the word jihad can
24 mean a personal inner struggle?

25 A It could.

Aziz-cross/Goodman

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1 Q And it can mean arms struggle; is that right?

2 A Yes.

3 Q And it can mean a political struggle? Jihad to reelect
4 the president or to defeat the president in the upcoming
5 election, that could be a jihad, right?

6 A I'm not sure.

7 Q It could mean a struggle to -- on the part of an
8 individual to get to heaven, to follow the ways of God, could
9 it not?

10 A It could.

11 Q And rather than translating the word when you saw it or
12 heard it, you just used that word; is that correct?

13 A Yes.

14 Q I want to take a look at a couple examples, if I may. Do
15 you have Exhibit 12 in front of you?

16 A No.

17 THE COURT: Now in evidence is 7 through 12
18 inclusive and T7 through 12 inclusive, right?

19 MR. GOODMAN: Yes. This is, excuse me, T12. I
20 apologize, your Honor. Thank you.

21 May I approach the witness?

22 THE COURT: Just a second.

23 Do you have T12 in front of you?

24 THE WITNESS: I don't have anything.

25 MR. GOODMAN: I think this was the marked exhibit.

1 The Court's exhibit.

2 Q I want to call your attention, direct your attention, if
3 I may, to page seven.

4 A Okay.

5 Q Right at the top of the screen, but in the middle of the
6 page, Ms. Aziz, the Sheikh says right here -- no, let me see
7 if I can get up closer to the screen. It is very hard to see.

8 MR. GOODMAN: May I move the screen a little closer
9 to the jury, your Honor?

10 THE COURT: The jury can see it, I think. Can you
11 see it?

12 (Jurors nodding.)

13 MR. GOODMAN: I can't move it.

14 THE COURT: They can see it, they said.

15 Q No. Will tell him let us do jihad. We want to do jihad,
16 but let us do jihad our way.

17 That was your translation; is that correct.

18 A That's correct.

19 Q That is a correct translation, is it not?

20 A That is correct.

21 Q And, Ms. Aziz, it says and we, as you said, will visit
22 Sheikh Yassin and tell him, open the subject with him and tell
23 him how we will benefit from this field. Sheikh Moayad said
24 he'll say, quote, give me and that's it. It is none of your
25 business. I will not work with you and you'll stop speaking

1 with me. I know him, he's troublesome?

2 Is that correct.

3 A That's correct.

4 Q Then, go, if you would, to page ten?

5 (Pause in proceedings.)

6 THE COURT: Let's go.

7 MR. GOODMAN: Yes, sir.

8 Q The Sheikh says, Mr. Zayed says, God is the foundation of
9 oneself, but one must, and then Sheikh Moayad quotes from
10 something and it is all in italics, prophet of God, tell me
11 what things, and then it says UI, Mohamed and Islam, he said
12 believes in God and prophet. He said what else? He said
13 jihad is for the sake of God. Unquote?

14 So, and this is still Sheikh Moayad saying, jihad is
15 from amongst the best of deeds; is that right, is that what it
16 says.

17 A That's correct.

18 Q Now, I notice that in that particular paragraph jihad is
19 put in capital J and a small j; is that correct?

20 A That's correct.

21 Q The reason for that is what?

22 A It is a typo.

23 Q It is a typo?

24 A Yeah.

25 Q What should it have been?

1 A It could be lower case j. It doesn't really make a
2 difference.

3 Q It doesn't make a difference. And the -- there are
4 quotation marks used in this paragraph, also. What are those
5 quotation marks?

6 A This is a hadith, h-a-d-i-t-h, which is a quotation from
7 the sayings of the prophet.

8 Q So, this is a direct quotation --?

9 A That's correct.

10 Q -- from the Koran?

11 A No.

12 Q This is from the hadith?

13 A That's correct.

14 Q Whenever the word jihad was used you use that Arabic
15 word; is that right?

16 A Yeah.

17 Q You never translate it into struggle, arms struggle or
18 struggle to be in the way of God?

19 A I've translated struggle when it was appropriate.

20 Q You translated it struggle sometimes?

21 A Yes.

22 Q Can you point to an example of that?

23 A May I have the other exhibit?

24 Q Sure.

25 THE COURT: You're handing her what?

Aziz-cross/Goodman

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1 MR. GOODMAN: Exhibit 8 -- excuse me, 7, 8, 9, 10
2 and 11.

3 THE COURT: I thought she already had 7.

4 MR. GOODMAN: I believe she had 12, your Honor.

5 THE COURT: Okay. 7 to 11 inclusive?

6 MR. GOODMAN: Yes.

7 A Exhibit T11, page four. I've actually left the word
8 jihad, but I had translation note about six or seven lines
9 down from the top.

10 Q Yes, I see it. May I take a look at it and post it, if I
11 may, so that the jury can see what we're talking about? Okay.
12 Excuse me, I can't clearly see it. I'm at about the third of
13 the way down. Let me, if I may, I'm going to go up to the
14 screen and see if I see it. Oh, yes, I see it.

15 MS. CHEN: T11.

16 MR. GOODMAN: Yes.

17 Q Moayad, I'm telling you he wants fairness. We'll give
18 him fairness so that he doesn't threaten us. Then you have
19 Mr. Zayed saying UI, which means unintelligible?

20 A Right.

21 Q \$500,000 is not so little. Let me tell you, UI. It is
22 true that one swore, but now he needs protection. Moayad,
23 he'll feel UI, he'll feel he was treated unfairly and we did
24 not give him justice, and Zayed, jihad, jihad in life and then
25 in brackets is your interpretation of that; is that right?

Aziz-cross/Goodman

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1 A That's correct.

2 Q There you're acting as an interpreter rather than a
3 translator; is that right, when you put in your interpretation
4 of what jihad means in that context?

5 A No. Part of translation is interpreting what the word
6 means in a sentence.

7 Q This is the only time in the transcript that you
8 translated that you used the word struggle and you don't even
9 use it in the text, you use it as one of your notes; is that
10 right?

11 A Yes.

12 Q And as was already pointed out, you are employed by the
13 FBI; is that right?

14 A Yes.

15 Q So that going back to my previous question, Ms. Aziz,
16 every time the word jihad was used in the conversation you
17 wrote it in your translation as jihad; is that right?

18 A That's correct.

19 Q Now, is that because you believe everybody understands
20 what the word jihad means?

21 A Partly.

22 Q How do you say the word God in Arabic?

23 A Allah.

24 Q Did you ever use the word Allah in these transcripts?

25 A Yes.

Aziz-cross/Goodman

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1 Q Did you also sometimes use the word God?

2 A Yes.

3 Q Interchangeably, didn't you?

4 A Yes.

5 Q What does the Arabic word tadreeb mean?

6 A I'm sorry.

7 Q Tadreeb.

8 MS. CHEN: Spell it.

9 A Can you -- do you have it in Arabic?

10 Q I certainly don't have it in Arabic. I will see if I
11 have a better pronunciation since Arabic is not a language
12 which I am fluent. Tadreeb.

13 THE COURT: Spell it.

14 MR. GOODMAN: T-a-d-r-e-e-b.

15 A Tadreeb.

16 Q Yes.

17 A Training.

18 THE COURT: Trade?

19 THE WITNESS: Training. To train someone.

20 Q When the gentleman used the word -- was this a word that
21 was used in the conversation between these gentlemen?

22 A Yes.

23 Q And how did you translate it when they used that word in
24 Arabic?

25 A Off the top of my head, I would have to look at the

1 Arabic but I would say training.

2 Q Did you always translate it as training?

3 A I'm not sure.

4 Q Can it also mean education?

5 A No.

6 Q Can it mean educate?

7 A No.

8 Q Can it mean school?

9 A No.

10 Q The UIs, we've talked a little bit about the UIs, we've
11 seen examples of them in the transcripts here; is that right?

12 A That's correct.

13 Q Let me hand you the transcript back. When you designate
14 something as UI, it means you could not understand it; is that
15 right?

16 A I could not hear it.

17 Q That's right?

18 A Correct.

19 Q I'm sure you could understand it if you could have heard
20 it. You could not discern what was being said; is that
21 correct?

22 A That's correct.

23 Q And sometimes UI would be a word, you just missed a word
24 here and there; is that right?

25 A That's right.

Aziz-cross/Goodman

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1 Q Sometimes a whole sentence; is that right?

2 A That's right.

3 Q Or a paragraph?

4 A Rarely a paragraph, but it could be a couple sentences.

5 Q Could it also be a paragraph? You said "rarely." It
6 was never as long as a paragraph?

7 A I really have to review it, but I find it unlikely an
8 entire paragraph.

9 Q At any rate, when you wrote it down here in the
10 transcript, in these exhibits that we've marked and have
11 admitted, you just put down UI; is that right?

12 A That's right.

13 Q You did not indicate the length of the passage that was
14 unintelligible to you; is that right?

15 A That's correct.

16 Q And after that you followed up with another -- let me
17 see if I can find an example here.

18 Looking again at T12, if you could open it up to
19 page 16. Toward the bottom of the page Sheikh Moayad says I
20 swear one passed me a note --.

21 A I'm sorry, I can't find it.

22 Q Let me see if I can help. Are you at page 16?

23 A Yes.

24 Q It might be page 17. Perhaps I can help you. Page 17, I
25 apologize. Let me just use yours.

1 THE COURT: Let's go.

2 MR. GOODMAN: Yes, I apologize, your Honor.

3 I will withdraw this. Your transcript is a little
4 different than mine.

5 Q When you listened to all of the disks, not necessarily
6 what you translated, did you discover any passages in which
7 the two gentlemen, the two defendants, Mr. Al-Moayad, Sheikh
8 Al-Moayad and Mr. Zayed were speaking not on the 8th, but on
9 the 7th just by themselves in their room?

10 A I would have to -- on the 7th?

11 Q On the 7th.

12 A No, I did no translation on the 7th.

13 Q I'm not asking if you did a translation. You said I
14 listened to some things I didn't translate?

15 A Those particular dates only that I translated.

16 Q Oh, so, whether there's something on the 7th or not, you
17 don't know?

18 A I believe there was and my colleague did it, but I did
19 not do this.

20 Q Whether there was a conversation just between Sheikh
21 Al-Moayad and Mr. Zayed on the 7th, you can't say; is that
22 right?

23 A No.

24 Q You did review your colleague's transcripts, as well; is
25 that right?

Aziz-cross/Goodman

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1 A I leafed through them quickly. I did not read every
2 single one.

3 Q You don't recall whether there was or not; is that a fair
4 statement?

5 A No.

6 Q Now, you were asked about this word haram, correct?

7 A Yes.

8 Q That means something that is forbidden; is that right?

9 A That's correct.

10 Q Where is it used in the transcript in which you referred
11 to?

12 A You have to give me a minute.

13 Q I will.

14 MS. CHEN: Your Honor, perhaps I could assist by
15 directing the witness to a specific location, rather than her
16 going through the whole thing.

17 THE COURT: Yes.

18 MS. CHEN: Talking about the conversation on the
19 10th, which is T12.

20 MR. GOODMAN: Which page?

21 MS. CHEN: One minute. Page three, toward the
22 bottom of the page.

23 Q May I see it for a moment?

24 A Sure.

25 (Pause in proceedings.)

Aziz-cross/Marks

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1 THE COURT: Let's go.

2 MR. GOODMAN: Yes, your Honor.

3 Q You testified that under Islamic law jihad is not haram;
4 is that correct?

5 A That's correct.

6 Q Have you studied Islamic law?

7 A Not in detail.

8 MR. GOODMAN: That's all I have, your Honor.

9 THE COURT: Okay. Mr. Marks.

10 MR. MARKS: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. MARKS:

13 Q Good afternoon, Ms. Aziz.

14 A Good afternoon.

15 Q When did you start working on this case?

16 A I started working on this case I would say about four to
17 five months ago.

18 Q And who assigned you to it?

19 A My supervisor.

20 Q Who is that?

21 A His name?

22 Q Yes.

23 A Mr. Shabu (ph.)

24 Q After Mr. Shabu assigned you to it, did you meet with the
25 case agent on this case?

Aziz-cross/Marks

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1 A Yes.

2 Q That's Brian Murphy?

3 A I don't recall if I met with Brian.

4 Q Possibly with Robert Fuller?

5 A Possibly.

6 Q And in the course of your early discussions with them,
7 did they tell you basically what this case was about?

8 A Yes.

9 Q They told you that two men had met in a hotel room in
10 Frankfurt?

11 A I don't know if they specifically told me, but I knew
12 what the case was about.

13 Q Right. You knew that this was an investigation into
14 people who were allegedly funneling money to Al Qaeda and
15 Hamas?

16 A Something like that.

17 Q Now, you told us earlier, didn't you, that a translation
18 of the word or even a sentence can depend on the context?

19 A That's correct.

20 Q And, so, your context was that these were conversations
21 about funneling money to terrorist organizations?

22 A That's the overall picture.

23 Q Right, exactly. That is the picture you had in your mind
24 when you were going about your work, correct?

25 A Yes.

1 Q Now, you told us, for example, that there is a word
2 tadreeb?

3 A Yes.

4 Q Which you interpret as meaning training; is that right?

5 A Yes.

6 Q You thought in the context of these conversations
7 training was the best definition?

8 A Yes.

9 Q Right. Are there other definitions of that word that
10 you're aware of?

11 A Yes.

12 Q Habituation?

13 THE COURT: Habituation?

14 MR. MARKS: Habituation.

15 A I'm not aware of that.

16 Q Practice?

17 A Yes.

18 Q Drill?

19 A Yes.

20 Q Schooling?

21 A Yes.

22 Q Coaching?

23 A Yes.

24 Q Tutoring?

25 A Yes.

Aziz-cross/Marks

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1 Q Those are all definitions of the word tadreeb, yes?

2 A Yes.

3 Q Fine.

4 A Schooling context I'm not so sure about even though it
5 says that in the dictionary.

6 Q I don't quite understand. You're saying you're -- that
7 you are not aware of --?

8 THE COURT: She said she's not so sure.

9 Q You're not so sure about the schooling?

10 A Right.

11 Q If it were in the dictionary you would accept that?

12 A Well, I would have to check with another dictionary.

13 Q Okay.

14 By the way, are you familiar with the Arabic English
15 dictionary, the --.

16 A Yes.

17 Q Hans Vare (ph.) Dictionary?

18 A Yes.

19 Q It is a well known and well respected dictionary?

20 A Yes.

21 Q If it had the word schooling as a definition of tadreeb,
22 would you accept that?

23 A Depends what kind of school. Again --.

24 Q No, not school. Schooling.

25 A Schooling in what? That's what I'm trying to say.

Aziz-cross/Marks

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1 Q Perhaps I could just show this book to you. This is a
2 well respected treatises?

3 A I use it.

4 Q Good. Okay, fine.

5 THE COURT: Mark it for identification.

6 MR. MARKS: Sure, Judge.

7 THE COURT: Defendant's Exhibit, which one, Augie?

8 THE CLERK: Defendant's Exhibit 1 now.

9 THE COURT: Make it A. Government is using numbers,
10 you're using letters, right?

11 MS. CHEN: That's usually how it works.

12 THE CLERK: Defendants' A.

13 MR. MARKS: Okay.

14 Q I show you what's marked Defendants' A for
15 identification.

16 THE COURT: What is Defendant's A for
17 identification?

18 MR. MARKS: Hans Vare (ph.) Dictionary of Modern
19 Written Arabic, written by J.M. Cowan.

20 Q Take a look at the entry for tadreeb.

21 A Sure.

22 Q Would you agree with me schooling is one of the
23 definitions under tadreeb in that dictionary?

24 A Yes.

25 Q Thank you?

Aziz-cross/Marks

299

1 You told us a few minutes ago that you were somewhat
2 familiar with the conversations which your colleague
3 Ms. Soliman transcribed

4 A Somewhat.

5 Q And how is it that you're somewhat familiar with those?

6 A I have her transcripts to read, but I didn't read all of
7 them.

8 Q I see.

9 MR. MARKS: Now, with the Court's permission I would
10 like to give the witness a -- one of these earphones to
11 listen to a conversation which is cued up, guaranteed.

12 MS. CHEN: Your Honor, may I inquire which
13 conversation?

14 MR. MARKS: Yes, sure.

15 MS. CHEN: If it is one on the computer, I will
16 object.

17 MR. MARKS: It is. It is T5 and it is -- yes, it
18 is T5.

19 MS. CHEN: Your Honor, the defense is attempting to
20 question this witness about transcriptions prepared by the
21 last witness. These are not her transcriptions.

22 THE COURT: What are you doing?

23 MR. MARKS: Let me ask some -- a foundational
24 question, your Honor.

25 THE COURT: Go ahead.

1 MR. MARKS: Thank you.

2 Q You told us about the word haram?

3 A Yes.

4 Q What is haram?

5 A Forbidden by Islamic law.

6 Q It is like unkosher?

7 A Kind of.

8 THE COURT: Unkosher?

9 Q Like hilal is kosher, right, and haram is unkosher?

10 A Right, pertaining to food.

11 Q Not necessarily. I think, but that's the idea, isn't it?

12 A Yes.

13 Q Okay.

14 Now, what I want -- what I would like you to do
15 with the Court's permission is to just listen to this
16 conversation and see if you hear the word haram in it and tell
17 us what it means.

18 THE COURT: I will sustain the objection. Number
19 one, this witness did not testify she translated this.

20 MR. MARKS: Exactly.

21 THE COURT: Interpreted this.

22 MR. MARKS: Exactly. I would like her to do that,
23 your Honor. I could call her, of course, on my case.

24 THE COURT: I will sustain it. Beyond the scope of
25 direct.

1 MR. MARKS: Very good. I wish to recall this
2 witness as my witness, your Honor, when the time comes. I
3 assume the government will make her available.

4 THE COURT: She is in the FBI, she's in New York, so
5 she'll be here.

6 MR. MARKS: Thank you.

7 No further questions.

8 THE COURT: Anything else, Ms. Chen?

9 MS. CHEN: No questions from the government, your
10 Honor.

11 THE COURT: Okay, you can step down. They might
12 call you back again.

13 THE WITNESS: Okay.

14 THE COURT: You're right across the river?

15 THE WITNESS: I'll be there.

16 MR. GOODMAN: Your Honor, before we proceed with the
17 next witness, I would -- I would like to correct an
18 oversight. I would like the jury to be introduced to my
19 colleague and co-counsel Mr. Howard Jacobs.

20 THE COURT: I think they've met him before, haven't
21 they?

22 A JUROR: No.

23 MR. GOODMAN: I don't believe they have.

24 MR. JACOBS: Hi, everybody.

25 THE COURT: I apologize. You should apologize --.

Side-bar

302

1 MR. GOODMAN: I do.

2 THE COURT: -- for not introducing him earlier.

3 MR. GOODMAN: I already apologized.

4 THE COURT: Do you have another witness?

5 MS. MOORE: No, your Honor. At this point the
6 government intends to play some disks.

7 THE COURT: Okay. Some disks?

8 MS. MOORE: The video.

9 MS. CHEN: Modern lingo for movies, your Honor.

10 MR. MARKS: Your Honor, may we approach? We have an
11 objection.

12 THE COURT: They are in evidence.

13 MR. MARKS: Of course, but I believe the government
14 is intending to play the audio. I withdraw my objection if
15 they're not.

16 MS. MOORE: Yes, we intend to play the audio.

17 MR. MARKS: Your Honor, the government represented
18 --.

19 MR. JACOBS: I think we should do this at the
20 side-bar, your Honor.

21 THE COURT: Okay.

22 (Side-bar discussion on the following page.)
23
24
25

Side-bar

303

1 (The following discussion took place at the
2 side-bar:)

3 THE COURT: Go ahead.

4 MR. MARKS: Your Honor, we now know that these
5 translations by Al-Anssi are not accurate, the government's
6 witness.

7 THE COURT: We know? It is your assertion.

8 MR. MARKS: It is the government's assertion through
9 their witness.

10 THE COURT: Go ahead.

11 MR. MARKS: Through Ms. Soliman.

12 The government represented that they intend to offer
13 -- they intend to offer the English over the defense objection
14 as context even though it's demonstrable that the defendants
15 don't understand a word of it.

16 Now, it would be extremely misleading and
17 prejudicial to allow the jury to hear these
18 misinterpretations, these mistranslations of the Arabic
19 translation with the defendants. I object.

20 MS. MOORE: Mr. Marks made this motion. The Court
21 ruled on it. What the witness actually said is sometimes the
22 translations were inaccurate. He asked her if they were
23 largely inaccurate. She said no. So, the Court's ruling
24 previously on this --.

25 THE COURT: Overruled. It can come in.

Side-bar

304

1 MR. MARKS: I ask for a limiting instruction, your
2 Honor. The instruction that I request is this: These
3 conversations are being offered only for the context, only for
4 context, not for truth, not for the accuracy of the
5 translations.

6 MS. MOORE: English portions, that's correct.
7 English portions coming in for context.

8 MR. MARKS: And they are not --.

9 THE COURT: Write it out for me. Get together with
10 the government and get something.

11 (End of side-bar discussion.)
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Side-bar

305

1 (Open court.)

2 MS. CHEN: Your Honor, we will begin by playing
3 Government's Exhibit No. 1 which is in evidence.

4 MR. MARKS: If I can just have a moment, your Honor,
5 I will have the instruction to the Court in just 30 seconds.

6 THE COURT: Let's go ahead. You'll get it to me
7 when you get it to me.

8 MS. CHEN: Your Honor, in preparation for that we
9 would like to hand out headphones to the jurors.

10 THE COURT: Go ahead.

11 MS. CHEN: I would also like to give some
12 instructions on their use before we start.

13 THE COURT: By that time Mr. Marks will be finished.

14 MS. CHEN: Your Honor, if I may give a quick
15 tutorial on how to use the headphones.

16 You'll notice, ladies and gentlemen, on the bottom
17 of the headphones there is an on-off switch. Click it to the
18 left, I guess counterclockwise -- or clockwise, rather, turn
19 them on and slowly turn the volume. You may want to put it on
20 your head first. Do it very slowly. If anyone is having a
21 problem with the reception, raise your hand.

22 (Continued on the following page.)
23
24
25

1 (Whereupon, the following took place at the
2 sidebar.)

3 MS. MOORE: Your Honor, the government objects to
4 this.

5 MR.MARKS: Let me put on the record what my
6 requested instruction is. It reads: The English portions of
7 these exhibits are being offered for context only. The
8 government is not offering these as accurate translations of
9 the Arabic, the conversations.

10 MS. MOORE: And the correct objection is that the
11 English portions are hearsay, therefore the instruction should
12 be the English portions of these exhibits are being offered
13 for context only. They are not being offered for their truth.

14 That is the correct.

15 Whether or not they are accurate translations of the
16 Arabic is something the jury can decide on their own if it
17 ever comes to that, but the government is not stipulating to
18 that.

19 THE COURT: Offering them for their context only.

20 MS. MOORE: Yes.

21 MR. MARKS: Not for the truth seems to be
22 meaningless.

23 THE COURT: I'm not getting into all of that. They
24 are being offered for context only.

25 MR.MARKS: I request a more detailed instruction

1 along the lines that I have asked.

2 MR. GOODMAN: We join in that request. That
3 objected request.

4 (End of discussion at sidebar.)
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1 MS.CHEN: At the bottom of the headphones there are
2 two circles, a single hash mark and two hash marks. I just
3 want to be sure that the best reception is at the two hash
4 marks.

5 THE COURT: The other them, ladies and gentlemen,
6 is that the English portion of this video, it's a video,
7 isn't it?

8 MS. MOORE: Yes.

9 THE COURT: Is being offered for context only, it's
10 not being offered for the truth thereof.

11 It's being offered for context only, the English
12 portion. There are two languages in here, Arabic and English.
13 I assume or maybe I shouldn't, that no one on the jury
14 understands Arabic. I don't understand Arabic but there are
15 English conversations in this video and it's being offered for
16 context only.

17 MR.MARKS: I think the juror might not have heard
18 the rest of the clarification.

19 THE COURT: How do you know?

20 A JUROR: I didn't hear you.

21 THE COURT: The English portion of this video is
22 being offered for context only. There are two languages in
23 here, Arabic and I assume nobody on the jury understands
24 Arabic, I don't, and English. And the English is being
25 offered for context only.

1 MR.MARKS: Did your Honor also say that it's not
2 being offered for the truth thereof?

3 THE COURT: I said that earlier.

4 MS.CHEN: As I said before, we'll start by playing
5 Government's Exhibit 1 which was previously admitted into
6 evidence.

7 We'll play the first 35 minutes, your Honor.

8 THE COURT: The first 35 minutes?

9 MS.CHEN: Yes.

10 THE COURT: This is going to be a 35 minute tape?

11 MS. CHEN: Just about.

12 Do you want to take the break first?

13 THE COURT: No.

14 Go ahead.

15 (Whereupon, a videotape was played.)

16 THE COURT: Just a second. The juror can't hear
17 anything.

18 (Whereupon, a videotape was played.)

19 MR.MARKS: Your Honor, we can not hear it.

20 THE COURT: Just a second.

21 Who cannot hear?

22 MR.MARKS: Mr. Zayed cannot hear and I cannot hear.
23 I think this thing is being blocked.

24 MR. GOODMAN: I can hear.

25 MS.CHEN: Make sure you are on two.

1 (Whereupon, a videotape was played.)

2 MS.CHEN: At this time we move T-1 into evidence
3 which is the transcript from this particular video.

4 THE COURT: You are offering the transcript.

5 MS.CHEN: Yes.

6 THE COURT: They are in evidence anyway.

7 MS.CHEN: Yes, we are going to read it into the
8 record. Actually for the jury's purposes, I will be reading
9 the part of CI-1. Mr. Knox will be reading the part of the
10 defendant Al-Moayad and Ms. Moore will be reading the part of
11 Zayed.

12 MS.CHEN: At this time we like to hand out
13 transcript binders.

14 MR. GOODMAN: While these are being read, I would
15 request that each time there are a portion that indicates UI
16 or unintelligible, that there be a pause of about 10 seconds
17 so that these ideas do not necessarily get strung together
18 when they should not be.

19 MS. MOORE: We will say UI every time there is a UI.

20 MR. GOODMAN: We would ask that there be a slight
21 delay.

22 THE COURT: UI, pause. I would recommend that you
23 people who are going to be playing CI-1 and CI-2, please come
24 up here near the stand at least so Allan can get everything
25 down.

1 MS.CHEN: Again, I'm CI-1.

2 CI-1: This is the bedroom.

3 MOAYAD: (UI) Did Haj Saeed insist on getting this
4 type of accommodations?

5 CI-1: Yes, Haj Saeed said that you are very dear
6 to us, therefore, he insisted on getting you the best
7 accommodations.

8 MOAYAD: It is the best accommodations.

9 CI-1: Huh?

10 MOAYAD: May he be rewarded by God.

11 CI-1: Huh?

12 ZAYED: May God reward him.

13 MOAYAD: If someone comes, we don't talk to him or
14 her?

15 CI-1: How?

16 MOAYAD: The hotel owners if they come to something
17 or us?

18 CI-1: No one will ever bother you, it is
19 all in my name. No one could do anything to you, you go in and
20 out as you wish and whenever you like.

21 MOAYAD: Are there any restrictions?

22 CI-1: You could come and go whenever you please,
23 you have your keys and you go in and out as you please and
24 whenever you please.

25 ZAYED: (UI)

1 MOAYAD: (UI)

2 CI-1: Huh?

3 MOAYAD: We want to make a doctor's appointment.

4 CI-1: We'll take care of everything for you.

5 MOAYAD: For the diabetes.

6 CI-1: Yes, (UI) God willing.

7 MOAYAD: I have a problem in my leg right here.

8 CI-1: Now here is the bedroom. What do you like
9 to do now? Would you like to sleep or rest a little or what?
10 Or would you like to talk now? Or later on when the man comes?

11 MOAYAD: Let us sit together a little.

12 CI-1: Huh? [TN: They all move to the living
13 room.]

14 MOAYAD: There is some kind of positive
15 psychological response.

16 CI-1: Yes, it is better to rest, to sleep-

17 MOAYAD: Just to settle down psychologically.

18 ZAYED: (UI)

19 MOAYAD: Just to settle down psychologically.

20 CI-1: Let's wait for the man, he is going to
21 bring the luggage.

22 MOAYAD: (UI)

23 CI-1: Let me show you around.

24 MOAYAD: This is for absolution prayer.

25 ZAYED: Where is the Qibla? [TN: Direction to

1 where Muslims pray.]

2 CI-1: Where is the compass, although I know
3 where the Qibla is, but let us make a use of it.

4 MOAYAD: May God help you and guide you.

5 CI-1: I say you rest and we go to the mosque for
6 the noon prayer, right?

7 MOAYAD: There is a half hour left only.

8 CI-1: This is by your local time, it is still
9 quarter of nine.

10 MOAYAD: Where is the sun?

11 CI-1: (Laughing).

12 MOAYAD: Where is the sun?

13 CI-1: It is coming.

14 MOAYAD: Dear God!

15 CI-1: And this is a second bathroom.

16 MOAYAD: A second bathroom?

17 CI-1: Yes.

18 MOAYAD: Wow, everything is ready.

19 CI-1: And here are the drinks, we don't drink.

20 MOAYAD: To whom is it for?

21 CI-1: They have their right, never mind, and
22 here is the water, the soda, and here is their right in the
23 nasty drinks, which we will not approach.

24 MOAYAD: Is this where they make tea?

25 CI-1: Here is the spoon, with the ground coffee.

1 You put the coffee in the filter, the water, it goes with the
2 coffee ground, then the filter and inside it you put the
3 coffee ground, then it comes out.

4 MOAYAD: Where do we pour the water?

5 CI-1: Here, right here you pour it with the
6 coffee ground.

7 MOAYAD: Oh, God almighty!

8 CI-1: (Laughing).

9 ZAYED: On what does it operate?

10 CI-1: Huh?

11 ZAYED: On what does it operate? Gas or
12 electricity?

13 CI-1: It is electric.

14 ZAYED: Oh! Electric!

15 CI-1: Yeah.

16 ZAYED: (UI)

17 CI-1: (UI).

18 CI-1: We changed the room at the last minute,
19 anyway your name is here. But regarding the reservation, it
20 was done today, it is all made under my name.

21 UM: How are you doing?

22 MOAYAD: Salam.

23 UM: Al Salam Alaykum Haj.

24 MOAYAD: Wa Alaykum Al Salam.....We have all the
25 channels, ABC, BBC, all the news.

1 CI-1: From where are you, brother?

2 UM: Pakistan.

3 CI-1: Pakistan, Ah! Good.

4 MOAYAD: How did you know he is from Pakistan?

5 CI-1: Huh?

6 MOAYAD: How did you know that he is Pakistani?

7 CI-1: Ah! He started by saying Al Salam Alaykum.

8 UM: You are from Yemen huh?

9 MOAYAD: Yes. Yemen.

10 CI-1: Thank you brother, okay.

11 UM: Thank you, Ma Al Salama [TN: Go in peace.]

12 CI-1: Go in peace.

13 MOAYAD: (Gesturing to CI-1 to lock the door behind
14 him.)

15 CI-1: I did, uhu...No one could get in. I
16 have this, which is an electronic key.

17 MOAYAD: That thing? God reward him.

18 CI-1: (UI) Yes, may God reward them of course, I
19 first met Sheik Saeed in Al Farouq Mosque in New York.

20 Inaudible.

21 CI-1: Here we don't have that; we just made the
22 reservation this morning, we dropped in.

23 MOAYAD: The best thing is to be [UI]. The topic
24 of our talks should be on the basis that we are going to do a
25 charitable project, the charitable bakery.

1 CI-1: Yes.

2 MOAYAD: Fifty per cent has to go to the charity,
3 which is the bakery project.

4 CI-1: Yes.

5 MOAYAD: The charitable bakery will have 50%, so
6 you know.

7 CI-1: Yes.

8 MOAYAD: Feeding the needy and such is what is
9 really needed. The other thing is Haj Hussein-

10 CI-1: Yes.

11 MOAYAD: Haj Hussein-

12 CI-1: Yes.

13 MOAYAD: -Haj Hussein, we must cooperate with him.

14 CI-1: Yes.

15 MOAYAD: We see how to cooperate with him, on the
16 basis of

17 CI-1: Therefore you must get some rest now so we
18 are clear on what we talk about. I'll call Haj Saeed now so
19 you can meet with him and get acquainted, and then we can have
20 our talks later.

21 MOAYAD: Just give him an idea. (UI) Basically
22 to help the needy.

23 CI-1: Yes.

24 ZAYED: To show what happened.

25 MOAYAD: And we have to visit each other.

1 CI-1: Yes.

2 MOAYAD: Did you give him the documents that were
3 on me?

4 CI-1: Yes, I gave it to him and

5 MOAYAD: [Laugh] and did you explain to him about
6 the bakery?

7 CI-1: I explained to him about the bakery

8 MOAYAD: And get a picture from him for the files.

9 CI-1: Yes, it is available.

10 MOAYAD: So that everything is clear.

11 CI-1: Yes.

12 MOAYAD: What remains, what you think is left for
13 us to accomplish.

14 CI-1: He is going to ask you. He is, of course.
15 The problem is that he was trying to understand, and he worked
16 with Abd Al Wahab. He was trying to understand and trust more
17 and such, but he didnt know what was going on with Abd Al
18 Wahab.

19 MOAYAD: When we met with Abd Al Wahab, it seemed
20 that he didnt understand things. Poor guy, his first wife, he
21 has five children with her, and he divorced her by force, to
22 marry an American woman who converted to Islam. That affected
23 her psychologically and he took her for treatment I asked him
24 to become a go-between, to deliver things for us.

25 CI-1: Saeed didnt feel comfortable towards the

1 person that came to visit him, he considered him to be a
2 guest. He should have met and that was it.

3 MOAYAD: God knows that is better that it happened
4 this way, he would have been in the middle of everything.

5 CI-1: He lost some trust in me, because I
6 arranged the meeting between them, and I arranged for
7 everything; then he didnt want to meet with him. Thats not a
8 good situation to be in.

9 MOAYAD: He had a psychological condition. I didnt
10 know about it then. He had psychological problems.

11 CI-1: We wanted to send some money through him.

12 MOAYAD: God planned it this way, now we are here
13 ourselves.

14 CI-1: Good, God willing. Thats what well talk
15 about

16 MOAYAD: It is important, God willing, that hes a
17 religious person.

18 CI-1: Yes, of course.

19 MOAYAD: Thats important.

20 CI-1: I just want to tell you some simple
21 information; this man

22 MOAYAD: What man?

23 CI-1: Haj Saeed.

24 MOAYAD: Yes.

25 CI-1: As I told you, I first met him in that

1 mosque, then I lived with him. Yes, for a period of time, in
2 his home. He gave me a room, because in New York you cant rent
3 a single apartment for \$2000 or \$1500 a month.

4 MOAYAD: No way, for an apartment?!

5 CI-1: Yes, for one room. So he was generous to
6 me and gave me a room at his place

7 MOAYAD: Is it that expensive in New York?

8 CI-1: One bedroom apartment is a thousand
9 dollars, and thats why I lived with him.

10 MOAYAD: Oh! How is that?

11 CI-1: So, because he was generous towards me, he
12 didnt take rent from me except for a token amount. Then I saw
13 him, and with his group.

14 MOAYAD: Uhum.

15 CI-1: I was startled: "Why do you have
16 weapons?"

17 MOAYAD: [Laugh]

18 CI-1: I wanted to leave. He said: Mohammed
19 listen, Im part of the Black/African American organization
20 that was fighting for their freedom since the sixties.

21 MOAYAD: Yeah, yeah, the protests that took place
22 then.

23 CI-1: He was working with them. Then he and the
24 group got involved in stealing the mail and the ground
25 transportation, in order to support their cause. After that-

1 MOAYAD: That's fine, that's okay and after that
2 they feed the needy and the poor?

3 CI-1: After that, he went to jail for a while,
4 and met one of our followers there.

5 MOAYAD: From the followers.

6 CI-1: He is a Palestinian.

7 MOAYAD: Yes, from the followers.

8 CI-1: He taught him what to do to help him with
9 training the Mujahidins.

10 MOAYAD: He taught him.

11 CI-1: At any rate, thats what happened and I
12 got to know him. He reassured me that...and explained that we
13 are going to execute certain operations-

14 MOAYAD: That he fears God and such, yes. You know,
15 you've explained to him, and God is a witness between you and
16 us.

17 CI-1: You do know what the problem is. Our
18 friend cant go out a lot or appear in public places

19 MOAYAD: I want to see him.

20 CI-1: No, no, its not you, its for the others.
21 Hes being vigilant, vigilant for you and us, and for all.

22 MOAYAD: He is too busy?

23 CI-1: Theres a lot of work to do.

24 ZAYED: We came here for treatment.

25 MOAYAD: We came here for treatment, to get real

1 treatment from a clever Doctor and Doctor Saeed, God bless
2 him. May God do good deeds through him. And we will meet,
3 God willing, now we'll go to him.

4 CI-1: I will give him a call now and or go to
5 the room and bring him with me.

6 MOAYAD: Is he there now?

7 CI-1: Yes. He is right here.

8 MOAYAD: Now?

9 CI-1: Yes, I'll bring him over here, you'll be
10 introduced, then you can get some rest and sleep.

11 MOAYAD: We'll talk to him and we'll clarify
12 matters.

13 CI-1: One moment.

14 MOAYAD: Where is he?

15 CI-1: Maybe downstairs.

16 MOAYAD: Maybe he went to lunch. In sha Allah.

17 [TN: God willing].

18 CI-1: (UI).

19 ZAYED: Where did you meet first?

20 CI-1: In New York.

21 ZAYED: Taqua? Taqua mosque?

22 CI-1: Yes. This is where I met with him in Al
23 Farouq mosque.

24 MOAYAD: I thought you said New York?

25 CI-1: Yes, New York, Al Farouq mosque in New

1 York. But he and the group are the ones who built the Taqua
2 hospital, I mean the Taqua mosque.

3 MOAYAD: And here is, where is their place?

4 CI-1: Here? I don't know in which office they
5 are, the one I know is in New York.

6 MOAYAD: The places that sell perfumes.

7 CI-1: Yes, such as the stores and all the
8 Islamic things. He came here just to meet you.

9 MOAYAD: May God reward you and him a thousand
10 times.

11 CI-1: Thank you.

12 MOAYAD: May he reward you before he rewards him.

13 CI-1: Thank you and may God protect you.

14 ZAYED: So what you are saying is that he has
15 nothing in Frankfurt?

16 CI-1: No, in Frankfurt, no, he came here for the
17 interview with you and he will leave.

18 ZAYED: So you came via France? Huh?

19 CI-1: He came here to see you, we came via
20 France, him and me.

21 ZAYED: So you came via France?

22 CI-1: Yes.

23 MOAYAD: And you arrived yesterday?

24 CI-1: Yeah. We came yesterday, (UI) because we
25 knew your flight always arrives in the morning.

1 MOAYAD: In the morning?

2 CI-1: There is a six-hour time difference-

3 MOAYAD: Six hours difference?

4 CI-1: Yes, now it is 9 oclock here and over
5 there it is one a.m.

6 MOAYAD: Over there?

7 CI-1: Yes, over there.

8 MOAYAD: How is that? So it is better for us that
9 is still morning.

10 CI-1: Yes.

11 MOAYAD: Thank God.

12 ZAYED: That means we fasted Ramadan over there.

13 CI-1: Yes. But, as you know, over there we are
14 in the country of Infidels. You find immorality in the streets
15 one place after the other and right next to it you go into the
16 mosque. The mosque gets filled with worshippers and after the
17 prayers Sheikh Saeed prepares a feast for all Muslims to eat.
18 Most of the people who come are mostly from the black Muslims.

19 MOAYAD: Most of them are really poor!

20 CI-1: Yes of course, you know this is done
21 mainly for those who have financial hardship.

22 MOAYAD: Where do I get to eat?

23 CI-1: Mm.

24 MOAYAD: Does one steal? It is forbidden, does one
25 take interest on money? It is not right.

1 CI-1: That's how they are living.

2 MOAYAD: Therefore it is said that life is a jail
3 for the believer.

4 CI-1: Yes.

5 MOAYAD: Usury? What to do? Do I stay put, cross
6 my legs, wait to be handed. I have to work hard for my money.

7 CI-1: Yes, one has to sweat. I have to sweat
8 and work hard.

9 MOAYAD: (UI) yes where could they get food? Of
10 course, if they dont have places to eat or financial support.
11 There is corruption in their streets...many sins and adulterers.
12 (UI)

13 CI-1: Yes.

14 MOAYAD: Liquor is sold in the streets, this will
15 drink tea, or coffee and I won't touch alcohol. Corruption is
16 in the streets, adultery, sins, but I chose my home and my
17 office.

18 CI-1: Yes.

19 MOAYAD: How do you free the believers? They will
20 be freed in the afterlife, when everybody is freed and sent to
21 paradise where everything is provided. The richest people will
22 be asked, have you seen a good day in your life? They will say
23 no. They will ask the poor, have you seen a bad day in your
24 life? They will say never, because a glimpse in heaven made
25 them forget the pains of life. While the torture of hell made

1 the spoiled rich forget the luxurious life style and the
2 worldly pleasure, which is temporary.

3 CI-1: Do you want to breakfast?

4 MOAYAD: Yes.

5 CI-1: After we finish lunch and relax then well
6 tell him at what time well be ready, God willing. Well go eat
7 in an Arabic restaurant.

8 MOAYAD: I have a hat. Can I wear that?

9 CI-1: Yes, thats better for you. You could wear
10 an overcoat to feel warm.

11 MOAYAD: Where is the heat?

12 CI-1: I am going to make it warmer.

13 MOAYAD: And lower.

14 CI-1: And lower.

15 CI-1: Yes, yes this is room 6222, I would like
16 to have more robes; bathrobe, slippers and some towels,
17 because we have two people here...what? We need two each for
18 the towels, and we need two this bathrobe and two of this
19 slippers. Thank you, bye.

20 MOAYAD: Did you ask for breakfast for us, or what?

21 CI-1: No, no, I ordered more towels and a robe.

22 MOAYAD: Uhum.

23 CI-1: A bathrobe for the shower. (UI)

24 MOAYAD: Now we can sleep before the shower.

25 CI-1: That is for later, I want to prepare you

1 before I go.

2 ZAYED: We have fruits.

3 MOAYAD: Oranges from Yemen.

4 ZAYED: We have cookies from Yemen.

5 CI-1: Would you like me to turn this on? You
6 want it warmer?

7 MOAYAD: (UI)

8 CI-1: It is warm now.

9 MOAYAD: Show me how to operate it.

10 CI-1: You do this, you touch that, and you raise
11 it this way: One, two, three. You have up to-

12 MOAYAD: Okay.

13 CI-1: If you want it cooler, turn it back. That
14 is it. We are here sub zero.

15 MOAYAD: Or 6 degrees.

16 CI-1: I am not that hungry, just had breakfast.
17 When you leave the room, bring your key.

18 MOAYAD: One key?

19 CI-1: No, two keys.

20 MOAYAD: Teach us how to use it.

21 CI-1: That is CNN.

22 MOAYAD: It is in Arabic in Yemen.

23 CI-1: No, there is only one Arabic channel.(UI)

24 ZAYED: Is there any cake here?

25 CI-1: There is better than cake here.

1 ZAYED: How can you call?

2 CI-1: First you dial zero, then 11 967...If you
3 come to America it is better than here.

4 [CI-1 goes into the bedroom and comes out.]

5 MOAYAD: (UI)

6 CI-1: (UI)

7 MOAYAD: (UI)

8 CI-1: (UI)

9 MOAYAD: (UI)

10 CI-1: (UI) America (UI) apartment (UI).

11 MOAYAD: (UI)

12 CI-1: (UI) .

13 ZAYED: (UI)

14 CI-1: Yes.

15 MOAYAD: (UI)

16 ZAYED: (UI) .

17 MOAYAD: (UI)

18 ZAYED: (UI)

19 MOAYAD: He is tired...long flight.

20 CI-1: What about me? Weve been traveling for
21 twenty hours, twenty hours, two days and one night! I am used
22 to flying. We came from New York to here nine hours.

23 ZAYED: By plane?

24 CI-1: Yes.

25 MOAYAD: No. He came by donkey? Yes by plane!

1 ZAYED: How far to Sana'a?

2 CI-1: Sixteen hours plus transits.

3 UM: Okay.

4 CI-1: Thank you very much.

5 MOAYAD: (UI)

6 CI-1: I am going to get the compass and see if
7 my friend returned yet.

8 MOAYAD: What's the number? That is the correct
9 number.

10 CI-1: 30, try 25. You can keep the compass with
11 you.

12 Let me go, after you pray (UI) my friend Saeed is
13 not in the room at the moment.

14 MOAYAD: From what can I drink?

15 CI-1: This is okay. I will bring more water when
16 I return.

17 MOAYAD: This is all from Saeed?

18 CI-1: (UI)

19 MOAYAD: Any instructions?

20 CI-1: Come and go as you please, just make sure
21 you have your key with you.

22 MOAYAD: (UI)

23 CI-1: (UI)

24 MOAYAD: What about you? Where are you staying?

25 CI-1: I know where I am praying. And I have the

1 compass, dont worry.

2 MOAYAD: We must pray. Where is the sun? We have to
3 wash up first. Where is the restroom? It is cold.

4 CI-1: If you would like we can pray at the
5 mosque, no problem. Here is the second bathroom. This is not
6 allowed for us, it is for them.

7 MOAYAD: We wont tell them to remove the alcohol.

8
9 MS.CHEN: That is the end of transcript one.

10 At this time we'd like to play Government's
11 Exhibit 2 which was previously admitted into evidence.

12 THE COURT: How long is that?

13 MS. MOORE: 5 minutes or so.

14 THE COURT: Go ahead.

15 (Continued on next page.)
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1 MS. CHEN: Your Honor, at this time we'd like to
2 read from transcript T-2 which was previously admitted into
3 evidence and is a translation of the conversation we just
4 heard.

5 We're only reading the Arabic portions.

6 MS. CHEN: I am C-1.

7 MR. KNOX: I am Al-Moayad.

8 MS. MOORE: I am Zayed.

9 MS. CHEN: Peace be upon you.

10 MR. KNOX: May Allah's peace, mercy and blessings be
11 upon you.

12 MS. MOORE: Al Salam Alykum Sheikh.

13 MR. KNOX: You are welcome.

14 MS. CHEN: He is saying sorry about the mishap at
15 the airport the other day (UI) plane (UI).

16 MR. KNOX: May you be rewarded by God.

17 MS. CHEN: Jazak Allah Khair.

18 MR. KNOX: We, I mean, we expected to see him in
19 Sanna but (UI).

20 MS. CHEN: In Sha Allah.

21 MR. KNOX: (UI).

22 MS. CHEN: Of course, he has an appointment with
23 his doctor, therefore he has to leave. Today is enough that
24 we're introduced, and we'll talk another time.

25 MR. KNOX: Of the blood sugar.

1 MS. CHEN: Yeah. He is saying that we are going to
2 look for a suitable doctor in Frankfurt.

3 MR. KNOX: In Sha Allah.

4 MS. CHEN: We'll get you one of the best.

5 MR. KNOX: In Sha Allah. Sure.

6 MS. CHEN: He is saying that he is going to see us
7 later, we'll have have tea together.

8 MR. KNOX: Sure.

9 MS. CHEN: We could relax for now.

10 MR. KNOX: And we'll meet in the evening. And we'll
11 meet in the evening.

12 MS. CHEN: Yes, God willing.

13 MR. KNOX: We could also see the doctor.

14 MS. CHEN: He is going to arrange that because we
15 have not taken an appointment yet. Because we have to see the
16 specialist regarding this thing and the specialist for the --

17 MR. KNOX: Sugar.

18 MS. CHEN: Yes, because we don't need appointments
19 in Yemen. We are going to look for a specialist, we are not
20 going to just go to anyone.

21 MR. KNOX: Yes.

22 MS. CHEN: So we'll locate a specialist and make an
23 appointment.

24 MR. KNOX: Okay. You contact him and you make an
25 appointment and that is it.

1 MS. CHEN: He said okay, and thank you very much.
2 These people which you (UI).

3 Yes, yes. We eat lunch first, then we rest a little
4 bit, after that we let him know at what time we will be ready
5 so he comes over.

6 MS. MOORE: Go in peace.

7 MS. CHEN: You must enter the code, we go
8 downstairs, we give them the passport and we go and come back.

9 MS. MOORE: And we return.

10 MS. CHEN: Laughs.

11 THE COURT: Is that it?

12 MR. KNOX: That's that one.

13 MS. CHEN: Now, Your Honor, we'd like to play
14 Government's Exhibit 3 which was previously admitted into
15 evidence.

16 THE COURT: How long is that?

17 MS. CHEN: It's approximately I think about maybe
18 ten minutes, Your Honor -- about 20 minutes.

19 THE COURT: We'll give the jury their afternoon
20 nature break.

21 Take five minutes, ladies and gentlemen.

22 MR. GOODMAN: How late are we going to go this
23 afternoon, Your Honor?

24 THE COURT: How many more witnesses do they have?

25 MR. GOODMAN: No more witnesses, it is all this.

1 THE COURT: Let me ask them.

2 (Pause.)

3 THE COURT: How many more witnesses?

4 MS. CHEN: Today we have no witnesses, it is just
5 videotapes.

6 MS. MOORE: The next several days will be just
7 videotapes.

8 THE COURT: How many videos do you have?

9 MS. CHEN: 12.

10 THE COURT: Today?

11 MS. MOORE: Today we'll probably finish this one and
12 then the next one is two hours long so we'll probably stop
13 before that.

14 MR. GOODMAN: What is your estimate?

15 MS. MOORE: When we'll finish today? We'll be done
16 by 4:20.

17 (Recess taken.)

18 (Continued on next page.)

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1 (Jury enters courtroom.)

2 MS. CHEN: Your Honor, the government is now about
3 to play Government Exhibit Number 3 which is a conversation
4 that was recorded on January 7th, 2003 beginning at 7:30 p.m.
5 and it involves both defendants and CIs 1 and 2.

6 (Tape played.)

7 MS. CHEN: Your Honor, we'd now like to read into
8 the record Government Exhibit T-3, a transcript of the
9 conversation you just heard previously admitted into evidence.

10 MS. MOORE: Once again, we will not be reading the
11 English or underlined portions.

12 A JUROR: I've got no pages in my binder.

13 (Pause in the proceedings.)

14 MS. CHEN: Peace be with you.

15 MS. MOORE: Peace and God's mercy and blessings be
16 upon you.

17 MS. CHEN: Is he in the bathroom?

18 MR. KNOX: No he just (UI). How are you doing
19 sheikh?

20 MS. CHEN: Thank God, I am tired, very tired.

21 MR. KNOX: Pause.

22 MS. MOORE: Turn to page three.

23 MR. KNOX: Moayad enters room.

24 Peace be upon you.

25 MS. MOORE: Peace, mercy and blessings of Allah

1 bestowed upon you.

2 MR. KNOX: How are you doing in this cold weather?

3 MS. MOORE: Thank God.

4 MR. KNOX: Thank God.

5 MS. CHEN: This is from Sheikh Saeed, it is the Holy
6 Quran in English and in Arabic.

7 MR. KNOX: God is great. Is it translated?

8 MS. CHEN: Yes.

9 MR. KNOX: Moving to page four.

10 That's good, that's good.

11 MS. CHEN: And this is the same for Sheikh Mohammed
12 Zayed.

13 MR. KNOX: God is great. Now all we have to do is
14 learn English.

15 MS. CHEN: It is translated, with God's will. There
16 are people who put a lot of effort into translating it.

17 MR. KNOX: Uhmm, uhmm.

18 MS. CHEN: Yes.

19 MR. KNOX: The translation was it under his
20 supervision?

21 MS. CHEN: No, this is from the book store. It is
22 copied from a very old Quran.

23 MR. KNOX: No, no, I mean the translation.

24 MS. CHEN: No.

25 MR. KNOX: Translate.

1 MS. CHEN: No, this is done through Saudi Arabia.

2 MR. KNOX: Yes you must verify it, because sometimes
3 the translation is not accurate.

4 MS. CHEN: But it all came from Saudi Arabia.

5 MR. KNOX: Page five.

6 As long as it came from Saudi Arabia, it is okay. I
7 am telling you because sometimes --

8 Look, look, that's good.

9 MS. CHEN: Yes, yes.

10 MR. KNOX: It is translated by Abdul Aziz Ibn Baz,
11 it is translated by Abdul Aziz Al Baz, mercy on his soul,
12 therefore it is a good translation.

13 MS. CHEN: He is Saudi.

14 MR. KNOX: Therefore the translation is correct.
15 Because some words were not accurately translated sometimes.

16 Page six.

17 I used to be general manager of a library, research
18 and publishing division in Al Awqaf Ministry in Yemen.

19 MS. MOORE: Uhum.

20 MS. CHEN: In Yemen.

21 MR. KNOX: And I was the reason that more than 30
22 people converted to Islam.

23 I used to follow up on their status.

24 Page seven.

25 MS. CHEN: He got them from the Muslims and the

1 Mujahidins who used to come to the Friday sermons, and Imam
2 Siraj Wahaj who was known in the USA for his Friday sermons.

3 MR. KNOX: Ha, ha, oh yes, Munafiquns.

4 MS. CHEN: Munafiquns this is one part of the Quran
5 which is part of --

6 MR. KNOX: I know, I know.

7 MS. CHEN: It is of one section.

8 MR. KNOX: The follow up section.

9 MS. CHEN: Yes, this is the card for Sheikh Saeed,
10 it has the name of his establishment.

11 MR. KNOX: Page eight.

12 It is not written in Arabic (UI).

13 MS. CHEN: This is the name of the bakery he owns.

14 MR. KNOX: His bakery, laughs.

15 MS. CHEN: Yes, his bakery.

16 MS. MOORE: Do you mean that his help is (UI).

17 We have the same idea.

18 MR. KNOX: Tell him it should be seven. It is like
19 the seven grains, in each one of them, one hundred grains will
20 come out.

21 Page nine.

22 Seven grains and God will reward you one hundred
23 grains for each one.

24 MS. CHEN: Do you have a card for him?

25 MR. KNOX: I don't have one for him but I will write

1 something for him later.

2 MS. CHEN: This is the copy of the wedding for you.

3 MR. KNOX: Aha.

4 MS. CHEN: This is the wedding.

5 MR. KNOX: Ha, ha, ha, ha.

6 MS. CHEN: He says that he liked the idea of the
7 group and how you help each other.

8 MR. KNOX: Page ten.

9 MS. CHEN: He wanted to watch it with you but there
10 is no video here. It could be facilitated. We can request a
11 VCR and you could watch it together later on.

12 MR. KNOX: Same idea, laughter.

13 MS. CHEN: Same idea, laughter.

14 He is saying that he is very much interested in the
15 Suna and in the wedding contract and of course these things
16 are not --

17 MR. KNOX: That is possible, it is possible. Tell
18 him that we can sit together and I can teach him what to say
19 and how to say it, how to perform the wedding contract, and
20 how to wash the dead, laughs, and how to cover him before the
21 burial. I have the background regarding this issue. I don't
22 know anyone in Yemen who teaches how to wash the dead and
23 cover them before their burial as well as I do.

24 MS. CHEN: Yeah.

25 MS. MOORE: Mm, hum.

1 MR. KNOX: Page 11.

2 MS. MOORE: God willing.

3 MS. CHEN: In Sha Allah.

4 MR. KNOX: In Sha Allah and we could exchange other
5 information.

6 MS. MOORE: God willing, regarding the group
7 wedding, the next year we do it, we are going to invite Sheikh
8 Saeed and he will attend it.

9 MR. KNOX: We go.

10 MS. CHEN: Yeah.

11 MR. KNOX: Page 12.

12 Thank you. Thank you.

13 MS. MOORE: Your Honor, at this time we could start
14 the next video. It is about an hour and 40 minutes. We could
15 get, you know, half an hour done or into it.

16 THE COURT: Okay, let's do it.

17 MS. CHEN: Your Honor, we're about to play
18 Government's Exhibit Number 4 which is previously admitted
19 into evidence and it is the following morning from the videos
20 we just showed at approximately 11 a.m. on the 8th of January,
21 2003. In the video there will be the two defendants and the
22 two CIs.

23 (Whereupon, the tape is played.)
24
25

1 (Whereupon, the tape is turned off.)

2 MS. CHEN: Your Honor, we paused the video to see if
3 the Court wanted to break now, it is five o'clock.

4 THE COURT: How much more do you have on that tape?

5 MS. CHEN: Probably another 30 or 40 minutes of the
6 video.

7 THE COURT: You want to hear the other 30 minutes?
8 Let's hear the other 30 minutes.

9 Go ahead.

10 (Whereupon, the tape is played.)

11

12 MS. CHEN: That concludes the playing, Your Honor,
13 of Government Exhibit 4 which was a video.

14 THE COURT: We can resume tomorrow at nine.

15 MR. GOODMAN: Your Honor, I would just ask that the
16 Court reinstruct the jury that none of what has been played
17 goes to the truth of anything asserted.

18 MR. MARKS: I join in that application, Your Honor.

19 THE COURT: I don't understand you.

20 MR. MARKS: What we're requesting, Your Honor, is
21 that the Court reinstruct the jury about the fact that
22 these -- that the English portions of this -- this tape was
23 admitted only for context and not for the truth thereof.

24 THE COURT: The English portions were admitted for
25 context and not for the truth thereof.

1 MR. GOODMAN: Thank you, Your Honor.

2 THE COURT: Okay. So, we'll see you tomorrow nine
3 o'clock. Have a good evening. Don't discuss the case, keep
4 an open mind.

5 (Time noted: 5:45 p.m.)

6 (Jury leaves courtroom.)

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9 (Proceedings adjourned as above set forth.)

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I N D E XWITNESSPAGE

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